
**COMMISSION MEETING
THURSDAY, APRIL 12, 2001
MINUTES**

Chair McLaughlin called the meeting to order at 11:10 a.m., at the Heathman Lodge in Vancouver. **Chair McLaughlin** announced that the ex officio members of the Commission were not present due to the Legislature being in session. She also announced that the Department of Personnel would be providing a presentation on the Executive Search Service because Director Bishop has announced his intent to retire. The following attendees introduced themselves:

MEMBERS PRESENT:

**COMMISSIONER LIZ McLAUGHLIN, CHAIR;
COMMISSIONER GEORGE ORR;
COMMISSIONER CURTIS LUDWIG;
COMMISSIONER MARSHALL FORREST**

OTHERS PRESENT:

**BEN BISHOP, Director;
ROBERT BERG, Deputy Director, Operations;
ED FLEISHER, Deputy Director, Policy & Government Affairs;
CALLY CASS-HEALY, Assistant Director, Field Operations;
DERRY FRIES, Assistant Director, Licensing Operations;
AMY PATJENS, Manager, Communications & Legal Dept.
JERRY ACKERMAN, Assistant Attorney General;
SHIRLEY CORBETT, Executive Assistant**

1. Executive Search Service Presentation - Department of Personnel:

Chair McLaughlin invited Phyllis Halliday, the agency's Human Resources Director, to introduce the guest speaker from the Department of Personnel. **Ms. Phyllis Halliday** introduced Stein Stenseng and Phyllis Gallegos, Executive Search Service staff from the Department of Personnel. She noted the Commission has contacted this service to conduct the recruitment process for an executive director.

Mr. Stein Stenseng thanked the Commission. He advised that he had sent materials to the commissioners in advance of today's meeting and hoped they had been able to review the information. He expressed his desire to finalize the language in the draft recruitment announcement relative to the salary, and pointed out that several of the commissioners had somewhat different ideas. He indicated his desire to finalize the draft recruitment schedule, particularly the closing and interview dates, so the Executive Search Committee could tailor the other key dates. He assured the Commission that he could work around anything they wished the team to do.

Chair McLaughlin interrupted to ask the commissioners if they were all comfortable with going out for the executive search service. She pointed out that they had not actually made that decision at this point. Each commissioner answered affirmatively. **Chair McLaughlin** reported that in his absence, Commissioner Parker asked the record to show that he approved of the executive search service.

Mr. Stenseng invited any input the Commissioners had about the strategy as proposed. He affirmed it was not carved in stone, and that the document proposed reflected his strategies and is not necessarily all-inclusive. **Mr. Stenseng** asked if there were any changes the Commissioners wished to make to the recruitment announcement. **Chair McLaughlin** asked if the current copy had been revised from the original text. **Mr. Stenseng** replied some slight changes were made that were different from the original text based on his individual conversations with each of the commissioners.

Commissioner Forrest indicated that he found the voluntary affirmative action form troubling. He thought it was terrible for the state to include this form as a part of the application process. He didn't understand how the state could ask for the information, particularly when we've seen what the public thought about affirmative action in regard to education. Commissioner Forrest believed the state couldn't say something is voluntary when in fact it's coercive, and that if applicants were being asked to submit this form as a part of an application they may feel it's coercive. He

emphasized the Commission would not discriminate, and would approve people on their merits. **Mr. Stenseng** responded that he could not address the issues that revolve around I-200. The state of Washington, *vis a vis* the Governor's Office, has had a consistent policy of encouraging affirmative action practices and encouraging diversity in the workplace. All state recruitment's, whether classified civil service or Washington management service, or exempt positions, utilizes this form. He shared his understanding that the state of Washington could not legally ask for this information other than in a voluntary form.

Commissioner Forrest indicated that if he had known this, he would not have hired this agency -- he believed it was a disgrace for the state of Washington to ask for this information. He noted that if the information gathered from the form couldn't make a difference in the Commission's decision - why would the Commissioners want to know. If the Commission strives for diversity, it could mean the Commissioners are going to give preference to some kind of a minority. **Mr. Stenseng** explained that he would give the Commissioners recommendations on which the best candidates were from the total candidate pool based on his experience and his analysis of their credentials. However, the final arbiter of who would be offered an interview opportunity rested with the Commission.

Chair McLaughlin asked if the voluntary affirmative action form must be included in the application packet. **Mr. Stenseng** responded that he was unsure if there was a legal requirement, and that he would need to consult with an attorney general, however, it has been state policy to do so. Mr. Stenseng affirmed the form is included in all state recruitments regardless of whether the position is exempt or a classified merit system position. **Commissioner Forrest** turned to Assistant Attorney General Ackerman for assistance. **Mr. Ackerman** advised that he had not seen the form under discussion. Mr. Stenseng responded it was the standard affirmative action form use throughout state government. **Commissioner Ludwig** commented that after listening to Commissioner Forrest, he too would rather not know the applicant's affirmative action information, then he wouldn't have to worry about whether he was discriminating or whether there's any prejudice or bias. **Ms. Halliday** clarified that the affirmative action information is not given to the Commissioners and is not shared with the Commission. She explained it couldn't be used as a basis of decision. The Commissioners would only receive the resume and the candidate's letter of interest. The affirmative action data is documentation for state purposes to see how many people were interested in and applied for the position. It is not used as a tool for decision making. Mr. Stenseng affirmed that per federal EEOC laws and regulations, one couldn't legally make that a criterion for deciding whether someone gets a job or not.

Commissioner Forrest noted that if the information isn't shared with the Commissioners, he didn't see why the Executive Search Service needed to know whether the applicant was Spanish, Latino or Hispanic. **Mr. Stenseng** responded that the Executive Search Service is interested in knowing whether their outreach efforts to the different communities were effective and the affirmative action form is one way to gauge the responses. **Commissioner Orr** agreed to a certain extent with Commissioner Forrest, however, he noted that in order to be able to show any community that the Commission had been equal in their search, he felt this probably was not bad information. **Commissioner Forrest** responded that the search service may have sent the application packet to every ethnic organization, but, if no one applies, that doesn't mean they've done anything wrong. Insofar as it is justification to show that the search was nondiscriminatory, he felt it would depend on what the Executive Search Service sent out, not what came back. If one doesn't get diverse applicants, it doesn't mean the search team hasn't done their job if they can show they haven't deliberately tried to exclude or have failed to send information to a possible place where applicants would hear about it. Commissioner Forrest didn't think the affirmative action form was justification showing that the service conducted a broad search. Their search should be determined on whom they sent the information to and what they did, not their results. Commissioner Forrest emphasized that if the data is not going to be shared with the Commission, it's just a statistical matter for the service's office, and he did not approve.

Jerry Ackerman, Assistant Attorney General, believed the basic question from Commissioner Forrest is whether or not this form is required. He believed that for an exempt position such as this, the search could be whatever the Commission wanted it to be. His understanding is that DOP liked to collect this information for their own purposes. They especially like to collect it when someone has been offered a position so that they can statistically show what the makeup of the state workforce is and track trends. However, absent a WAC to the contrary, whether or not this goes out or not -- especially for an exempt position -- is the Commission's call. Mr. Ackerman affirmed the Commission could structure and create the search in whatever manner it chooses. Mr. Ackerman affirmed many questions come up around these things, and he noted there are many good reasons to want the data. The flip side is that people frequently ask if this

shows potential applicants even applied. Legally, Mr. Ackerman believed it is the Commissioners call whether or not the form is included in this application packet.

Chair McLaughlin believed most executive search candidates are exempt and **Mr. Stenseng** affirmed. **Commissioner Forrest** said he would like to have the Commission on record that they either wanted this form included or do not want it included in the applicant package.

Commissioner Forrest moved that the Commission ask the executive search people to delete the voluntary affirmative action information and form, and also the reference to the form that included in the first draft of the application process packet. **Commissioner Ludwig** seconded the motion.

Chair McLaughlin called for discussion. **Commissioner Orr** said he was going to vote against the motion because he believed this data is for information-gathering purposes, and would not adversely affect the search. **Chair McLaughlin** advised she would also vote against the motion because the Commission would not receive that information and because she also viewed this as an information-gathering tool. Chair McLaughlin called for further discussion. There was none. *Vote taken: the motion failed to pass 2-2.* **Commissioner Forrest** and **Commissioner Ludwig** voted aye. **Commissioner Orr** and **Chair McLaughlin** voted nay.

Mr. Stenseng addressed the announcement, and asked whether the Commissioners had any edits particularly, but not exclusively, regarding the statement on salary. He noted that several Commissioners had different ideas about how to state the salary compensation on the recruitment announcement. Mr. Stenseng advised that he tried to craft some compromising language, taking into consideration the several different ideas. **Chair McLaughlin** asked why the applicants should know how much the current executive director makes. Mr. Stenseng replied that candidates would invariably ask. Chair McLaughlin asked if there could be a range shown versus a specific salary. **Commissioner Forrest** felt applicants are entitled to know what the Commission is paying. Mr. Stenseng said currently, there is not a range, just language that the compensation is determined by the Commission and the current salary. **Commissioner Ludwig** indicated the draft had the range, which he preferred. Mr. Stenseng affirmed the first draft did reflect a range and was changed to incorporate some of the conversations he had with individual Commissioners. The Commissioners did not have the same ideas about the salary or maximum salary. He affirmed they could go back to a range because nothing was sacrosanct about this language – it was just an attempt to get something everyone would like. **Commissioner Forrest** didn't want to commit the Commission to a range without knowing the candidate and their background and he noted the final salary would be negotiated. **Chair McLaughlin** said she would be more comfortable if the announcement said the current annual salary is \$102,384; however, the Commission sets compensation for this position, which could change.

Commissioner Orr made a motion to change the language to state the current annual salary of the executive director is \$102,384; however, the new executive director's salary may be less than that amount. There was no second to the motion.

Commissioner Ludwig said he preferred a range, and that he would not be interested in an applicant that came in and said he wanted to receive the current director's salary and he didn't want to put someone in the position of even thinking they might be eligible for that salary. **Mr. Stenseng** that it has been his experience (he has done between 100 and 150 searches over the last seven or eight years), that high-level executives and professional people who are not early in their careers, are the types of candidates who will be viable for this level of job. The candidate will tend to have some reasonable idea of what they think their worth is in terms of the market place relative to their experience, their qualifications, their education, and what they bring to the table. The candidate will make a calculated guess about what they think they need in terms of their own economic conditions and what they believe the salary is likely to be. By stating the fact that the Commission sets the salary, even though the announcement reflects the current salary, it is essentially a benchmark. **Mr. Stenseng** reiterated that doesn't mean the salary isn't negotiable. The salary is negotiated depending upon what the candidate brings to the table, how competitive they are relative to the other candidates they're competing against, what the Commission thinks their worth is, and how badly the Commission wants them as a candidate. **Commissioner Ludwig** noted that he couldn't keep from coming back to the fact that the previous and current directors were hired from the position of Deputy Director, and the Commission has been well served. **Commissioner Ludwig** affirmed that if a candidate knows the salary range and if they ask or want to know that the current director makes \$102,000 plus, that's fine. However, he did not want the candidate to expect to get paid at the

outset what Director Bishop is being compensated based on his long tenure of experience. If he candidate is hired at a lower range than the current director's salary, the Commission may give appropriate salary advancements based on their performance.

Mr. Ackerman, Assistant Attorney General, asked Mr. Stenseng what advice he would give to the Commissioners to make sure that they don't end up with a candidate who may come before the Commission and attempt to negotiate a compensation package that is not realistic given the budget and the inclination. He expressed a concern that Mr. Stenseng may find a candidate who was outstanding in every way, but had the salary expectation of \$150,000 a year. The agency would have wasted their time going through the interviews and the reviews if the candidate had an unrealistic expectation of what the compensation for the position was in the first place. **Mr. Stenseng** answered that if the salary is essentially \$100,000 it gives a person a rough benchmark of where the salary is. They also will weigh what analogous salaries are in government. Mr. Stenseng affirmed he would make sure that all leading contender candidates would know that the salary is commensurate with levels normally expected within state government and that it is not likely the Commissioners would approve a salary increase that was substantially greater than the range. **Commissioner Ludwig** noted that if his memory was correct, Director Bishop didn't start out at the same salary the former director was getting when he left. **Director Bishop** affirmed. Commissioner Ludwig recalled the Commission's practice of having some room for advancements without breaking the agency financially. Mr. Stenseng reiterated that if it is the Commission's desire to establish a range, that can be done.

Commissioner Forrest expressed his view that the current language was fine, and that Chair McLaughlin's addition wouldn't hurt. At this stage of the game, Commissioner Forrest believed it was sufficient to indicate the current salary, however, he was reluctant to set a range because he believed the agency would then be absolutely committed. **Chair McLaughlin** commented that she asked for the salary data for all the state agency executive directors and noted the Gambling Commission is on the high end and that the Commission has done as well by their directors. **Mr. Stenseng** responded that salaries in government tend to reside within a certain political reality. Chair McLaughlin asked if anybody felt that they want to change the language as proposed. **Commissioner Ludwig** responded that he didn't feel that strongly. Chair McLaughlin suggested they leave the language just as it is.

Mr. Stenseng asked if there were any other areas the Commissioners felt needed to be changed. **Chair McLaughlin** asked if any changes had been made to the process time frame. Chair McLaughlin wanted the Commission to be aware that if she were not reappointed to this position, she would be off the Commission before an executive director is selected, if the timeline remains as proposed. **Commissioner Forrest** believed shortening the timeline in order to have the process completed before Commissioner McLaughlin's term is over would be difficult. **Commissioner Orr** advised that he would be out of the state the first two weeks of June. It was agreed to leave the date July 27th as proposed.

Commissioner Forrest addressed the qualifications and asked if it would be appropriate to say that some knowledge or experience with the gambling industry would be an asset or a plus. He believed such experience would be an asset. **Chair McLaughlin** indicated that in their original meeting, they said if some one without gambling experience was hired, the Commissioners would say they had to keep Deputy Bob Berg and Deputy Ed Fleisher. Chair McLaughlin also believed that having gambling experience is almost necessary. **Mr. Stenseng** affirmed the Commission could make such a stipulation if they chose. He affirmed the question always comes up whether an experienced senior-level regulatory attorney, familiar with the judicatory processes and the state administration regulations acts and laws is sufficient, or how much more sufficient would someone coming from a gaming orientation or a background in that specific regulatory field be. He believed it gets down to learning curves. Mr. Stenseng asked how important that is, or not. He explained this is an attempt to strike a compromise with the view that there may be viable candidates who are executive experienced managers familiar with the regulatory regimes in general terms in the public sector, but aren't necessarily coming from that industry or that regulated community. **Commissioner Forrest** said he agreed, but, if all things were equal, some experience would be a plus. **Mr. Stenseng** affirmed that some language could be added. **Commissioner Orr** believed it should go without saying that a candidate should know something about this industry and he hoped that the executive search team would look at that as well when determining qualified candidates. Mr. Stenseng acknowledged and suggested some kind of language that speaks to the notion that experience relative to gaming is advantageous. What he'd rather not do, is use language that sends a signal to other very experienced executives that unless they are specifically coming from a regulatory agency that regulates gaming, or a gaming vendor, or the gaming industry, that they're not going to be viable. As an illustration, he suggested the Commission would presumably be looking at a mix of viable candidates from within this state, probably some regionally, and possibly several from other

parts of the country. He noted that he has five or six people that have expressed interest already and they are from other parts of the country. Mr. Stenseng advised that he had talked to a few high level executives from large state agencies in this state who expressed some interest in this position. Although they come from the highest levels of management in those agencies, they would not come with gaming experience, however, they are very seasoned, experienced top-level public sector executives.

Commissioner Ludwig said he didn't think it was the Commission's intention to exclude people outside the gambling industry. With that in mind, he addressed Mr. Stenseng's outreach list, particularly the last two, and said he didn't want to delete them because there may be some highly qualified people in the horse racing and boxing commissions. However, by experience, their philosophy, purpose, and policy is completely foreign to this Commission. **Mr. Stenseng** reminded the Commission this was strictly internal and this process was an attempt to convey hypothetically where they could have some high-level, well experienced, smart people coming from different venues.

Commissioner Forrest suggested they let the list stand the way it is and rely on the candidates to tell the Commission what their experience is, if any. The Commissioners agreed to leave it as is – however, they affirmed that gambling experience was necessary from the commissioners' point of view. **Mr. Stenseng** affirmed potential candidates would ask how much of an issue not having gambling experience would be. He said he would indicate that all things being equal, it is possible the commissioners may favor a candidate who if all other factors are relatively equal, comes from the gambling venue. **Chair McLaughlin** called for other comments on that issue and there were none.

Mr. Stenseng continued his presentation by calling attention to the last page of the packet describing the process. More detailed information will be provided to each Commissioner – the proposal simply represents ideas. Essentially, the recruitment closes on June 1st, which is the end of the candidate-gathering phase. Mr. Stenseng affirmed that throughout the process, he will be doing his own assessment of what the candidate pool is like and whom he thinks is viable. He advised that he will begin to slice up the pool of people on the basis of who he thinks the "A" candidates are -- the candidates that are likely to be the strongest contenders and who he believed the Commission would most likely feel are the strongest contenders. The "B" candidates are candidates who may be viable; however, the Commissioners may have some personal knowledge in the "B" category, which, for valid reasons may become an "A" candidate. The "C" candidates are candidates that he would euphemistically say are not competitive for this job level. Mr. Stenseng noted that generically speaking, based on past history, his service finds that about 5 to 10 percent of the candidate pool are going to be viable candidates and good contenders. At that point, briefing books will be created for each Commissioner containing the candidate's resume, a letter of interest, and an executive summary brief or matrix developed by the search team so that at-a-glance, the Commissioners can get a feel for the candidate's strengths and weaknesses. This information will be provided shortly after the June 1st closing date and may be used in determining which candidates will be invited to participate in interviews with the Commissioners.

Chair McLaughlin asked about the delay between June 8th and the interview dates which is not until July 19th and 20th. **Mr. Stenseng** responded that he anticipated that time would be necessary for each Commissioner to review the data, make their own deliberations and have thinking time. Additionally, if there are candidates from other parts of the country, there needs to be time for them to arrange their calendars. **Commissioner Forrest** asked whether a Saturday or a Sunday would be appropriate. Mr. Stenseng affirmed that has been done. **Commissioner Orr** said it would help him because he wouldn't have to take time off from work. **Chair McLaughlin** said it didn't make any difference to her. **Commissioner Forrest** said it wouldn't make a difference to him. Chair McLaughlin noted it would probably make a difference to Mr. Parker. Commissioner Orr thought it might make a difference to the candidate. Mr. Stenseng advised that candidates interested in the job would arrange their schedules. He noted the Commissioners could give him direction on this issue. After the Commissioners have had a chance to review the materials and make their own judgment about whether they believe they have a viable candidate pool, he envisioned conducting a telephone conference to review the "ABC" lists. At the end of the teleconference, hopefully the Commissioners would be able to reach a consensus on which candidates should be invited to the interview process. **Chair McLaughlin** suggested they conduct an Executive Session during the July meeting to narrow the pool down to the candidates they want to interview. Chair McLaughlin indicated this would be the only open discussion on this issue until the Commission makes their decision. She affirmed that anyone interested in applying need not be worried about his or her application being public.

Chair McLaughlin asked if Mr. Stenseng had anything else to add. **Mr. Stenseng** said he was available to answer questions. **Mr. Ackerman**, Assistant Attorney General, had a process question regarding experience in the gambling

industry. He asked Mr. Stenseng how the Commissioners would communicate those things, which are important to them in their decision-making process, so that Mr. Stenseng doesn't make his own evaluation which could be very different from what the Commissioners really want in a candidate? For instance, someone with a strong gaming background but for other reasons, Mr. Stenseng isn't terribly impressed with and he decides to put that person on the "B" list; or we could also have a person who has management credentials that are very impressive to Mr. Stenseng, but the candidate has no gaming background and Mr. Stenseng elects to put the candidate on the "A" list.

Mr. Stenseng responded that he anticipated having additional conversations with each Commissioner towards the end of things so that he could communicate how we are doing and to give a rough idea of what kind of people are responding. The materials provided to the Commissioner will be resumes and letters. They'll be broken out in such a way that Commissioners may spend as much time or as little time necessary to determine if they are comfortable with the "A" list candidates and whether there are a sufficient amount of "A" list candidates. He explained that is part of the reason why there is such a big space between the closing date and when the materials are provided to the Commissioners, and when the interviews take place. Mr. Stenseng emphasized the Commissioners need processing time and some time for them to give him feedback before definitive decisions are made. **Mr. Ackerman** reiterated that Mr. Stenseng would have conversations with each of the Commissioners individually before he makes the "ABC" list cut. Mr. Stenseng affirmed it is his intention to have at least one conversation toward the tail-end of the application gathering phase so he could give feedback on who we're getting – but not real specific details unless the Commissioners want it. For instance he would tell them that they have four or five gaming regulatory attorneys, or three state directors from similar agencies.

Chair McLaughlin referred back to a comment earlier about people Mr. Stenseng had in mind from out of state and questioned how they knew about the position already if the announcement had not even been sent. **Mr. Stenseng** said he had already been having telephone conversations with people he has called on his own. Mr. Stenseng said that is a primary means the Executive Search Team utilizes and why the list is so long. He contacts different types of sources and tries to develop leads – who among their colleagues might be interested or who would be a good candidate, or who should they pursue. On the other hand, there are some things on the list that he may not do anything with, he may never get around to talking to anyone in the Bureau of Alcohol, Tobacco and Firearms; the list was just an attempt to convey the general thinking process. Mr. Stenseng said he has already talked to a couple of people in NAGRA and one person in an analogous association like NAGRA which is for the gaming regulatory attorneys. He affirmed that kind of process has begun, primarily because until the Commission had a chance to bless the announcement, he couldn't afford to waste the time and not begin to move things along.

Chair McLaughlin asked if there were any other questions. **Mr. Stenseng** again thanked the Commission for their business. Chair McLaughlin announced that from now on everything would be in executive session. Mr. Stenseng affirmed that understanding.

Chair McLaughlin asked Commissioner Ludwig if he had a motion he would like to make. **Commissioner Ludwig** explained that he had made a motion last month in executive session thinking it was appropriate because of the subject matter and later learned the motion should be executed in a public meeting. It was in reference to the director's salary increase for 2001. While he would like to make the motion now for a higher increase than actually discussed in executive session, he believed it was appropriate to make the motion now.

Commissioner Ludwig made a motion, seconded by **Commissioner Forrest**, to increase Director Bishop's salary for this year retroactive to January 1, 2001, in the sum of three percent or a higher amount if a higher amount is received by state employees, generally. **Chair McLaughlin** called for further discussion, and there was none. *Vote taken; motion carried with four aye votes.*

Mr. Ackerman, Assistant Attorney General clarified for the record and for the information of those present that the Commission has been conducting their annual evaluation of Mr. Bishop and his performance in executive session over the last few months. It has been the Commission's practice certainly over the most recent years to consider the Director's performance and his eligibility for pay raises at around the first of the year in January or February and that process has been ongoing. However, the actual pay raise, for various reasons, was not arrived at and actually voted upon until now, which is the reason why the retroactivity of the raise.

At 12:30 p.m., **Chair McLaughlin** recessed the meeting until 1:30 p.m. **Chair McLaughlin** brought the meeting back

to order at 1:30 p.m., and announced that two of the Commissioners were not here although Commissioner Orr would return shortly. Commissioner Parker would not be present today. She also announced that the group had heard an earlier presentation from the Department of Personnel on the Commission's search for an executive director.

Chair McLaughlin thanked the Muckleshoot Tribe for the pens they had given to the Commissioners and she noted that Commissioner Forrest from Whatcom County attended an event in Skagit County. **Commissioner Forrest** reported that on April 8th, the Upper Skagit Tribe had a grand opening for their hotel facility which is adjacent to the casino which has been open for quite a while. Everyone who worked on the project, and various mayors in Skagit County were present, and it was a happy occasion. Commissioner Forrest said he was very pleased to be able to say on behalf of the Commission that we were glad to see them make this next addition. The Tribe is very optimistic this facility will bring in a lot of visitors and that while they're there attending other functions, they will also manage to visit the casino and make a contribution to the health and welfare of the Upper Skagit Tribe.

2. REVIEW OF AGENDA:

Amy Patjens, Manager, Communications & Legal Department, announced a change in Thursday's agenda regarding Item #8, which was a Petition for Review. The person who requested the hearing has asked that the hearing be postponed until May or June. Regarding Friday's agenda, Deputy Director Ed Fleisher will provide a staff report on the current legislation. Two rules are up for discussion that were filed after the last Commission meeting. One is dealing with the electronic facsimiles of cards, and the other is a petition for rule change by a licensee asking that the Commission decrease the threshold amount when a licensee could take advantage of the two-part payment plan. There are several rules up for discussion and possible filing. One deals with some changes for charities and nonprofit organizations on promotional opportunities and there are a host of rules dealing with card rooms. One other change for tomorrow's agenda is postponement of a presentation by the Colville Tribe which is expected to occur in May.

3. NEW LICENSES, CHANGES, AND TRIBAL CERTIFICATIONS:

Commissioner Forrest made a motion seconded by **Commissioner Ludwig** to approve the new licenses, changes and tribal certifications listed on pages 1 through 10 of the agenda packet under License Approvals. *Vote taken; the motion carried with three aye votes.*

3. GROUP IV QUALIFICATION REVIEW:

American Red Cross, Cowlitz-Wahkiakum-Pacific Chapter, Longview:

Derry Fries, Assistant Director, passed out a comparison report on the three organizations coming before the Commission today for qualification review. The report provides a comparison of net return dollars for the American Red Cross, Silver Buckle Rodeo and 40 et 8. It provides the old rule requirement, what was required under the net return, what is required under the new rule, 20.059, and what was actually achieved.

Mr. Fries explained the American Red Cross was formed in 1917, the mission of the American Red Cross is to provide emergency assistance to local disaster victims 24 hours a day, seven days a week. Licensed since 1987, the organization has 406 active members. The governing board is comprised of 20 board members including five officers. Approximately 17,990 people and several communities benefit from the organization's blood donation disaster relief programs. For the fiscal year ending December 31, 1999, the organization met its required combined net percentage of seven percent under the net return moratorium for their Class J Bingo license by achieving 8.4 percent in net return. The organization's year-to-date net return as of December 31, 2000 was 5.8 percent. The organization met its program service requirements and did not have excessive reserves. The organization did exceed their support services expenditure by two percent. They were verbally warned on this during the review process and have taken corrective action. At present, there are no administrative charges pending against the organization.

Based on their review, staff recommends that the Red Cross be approved as a charitable organization and authorized to conduct gambling activities in the state of Washington. Members present were Dean Decaco, board member, and Vicki Humphrey, Bingo Manager, who were invited to come forward, introduce themselves and answer questions.

Chair McLaughlin noticed the organization didn't have a paid Bingo manager. **Mr. Decaco** said their Bingo manager was Vicki Humphrey. Chair McLaughlin asked if her compensation was under \$40,000 a year and was told it was.

Commissioner Forrest asked if the Bingo operation was fairly stabilized now. Mr. Decaco responded that's a question everyone in a Bingo operation is asking. Last month, their Bingo operators saw a large rebound in their operation.

Commissioner Forrest made a motion seconded by Commissioner Orr to approve the American Red Cross, Cowlitz-Wahkiakum-Pacific County Chapter in Longview as a charitable organization and that they be authorized to conduct gambling activities in the state of Washington. Vote taken; motion passed with four aye votes.

5. **GROUP IV QUALIFICATION V REVIEWS:**
40 et 8 #99, Vancouver:

Derry Fries, Assistant Director, reported this organization was formed in 1978, and its mission is to foster and perpetuate Americanism through participation in various community functions and to serve the needs of veterans by supporting veterans' organizations. Licensed since 1974, the organization has 251 active members. The governing board is comprised of 12 members including six officers. The organization provides community service contributions and scholarships, promotes Americanism through traveling in a rebuilt locomotive, participates in veteran-related committees and supports various children's athletic programs. For the fiscal year ending August 31, 2000, the organization met its required combined net return percentage of 15 percent for their Class L Bingo license. By achieving 15.3 percent net return, the organization's year-to-date net return as of February 28, 2001 was 16.2 percent. The organization met its program and support service expenditure requirements and did not have excessive reserves. There are no administrative charges against the organization.

Based on the review, staff recommends that 40 et 8 #99 be approved as a patriotic organization and be authorized to conduct gambling activities in the state of Washington. **Connie Sorenson**, Primary Bingo Manager, and **Rod Strickland**, Chief Executive Officer, introduced themselves.

Commissioner Forrest asked them to explain what 40 et 8 #99 meant. **Mr. Strickland** explained that during World War I, boxcars were used in France to haul our troops, either 40 men or 8 horses. After the War, the American Legion was formed and anyone that rode the box cars said "let's form the 40 et 8." Their programs are for nurses training and child welfare. **Chair McLaughlin** said it looked as if they were doing all right and **Ms. Sorenson** affirmed they were holding their own.

Commissioner Ludwig made a motion seconded by Commissioner Orr to approve 40 et 8 #99 as a patriotic organization and that they be authorized to conduct gambling activities in the state of Washington. Vote taken; motion passed with four aye votes.

Silver Buckle Rodeo Club, Vancouver:

Derry Fries, Assistant Director, reported this organization was formed in 1978 and their mission is to encourage and support the participation of youth in equestrian events and studies. Licensed since 1984, the organization has 15 active members. The 15 members include three officers that comprise the governing board. The organization participated in youth equestrian championships sponsor and scholarship programs, donated facilities to local civic groups, made cash contributions to other charitable organizations in the community and offered year-around-equestrian classes. For fiscal year ending June 30, 2000, the organization met its required combined net percentage of 14 percent for its Class K Bingo license by achieving 15.2 percent of net return. The organization's year-to-date net return as of December 2000 was 17.6 percent. The organization met its programmed and supporting service expenditure requirements and did not have excessive reserves. There are no pending administrative charges against the organization.

Based on the review, staff recommends the Silver Buckle Rodeo Club of Vancouver be approved as an athletic organization and be authorized to conduct gambling activities in the state of Washington. **Nick Peck**, Administrative Director, and **Cindy Arnold**, Operations Director, introduced themselves.

Mr. Peck welcomed the Commissioners to Vancouver and also introduced two attending board members, Brian Wolfe, and Larry Files. He conveyed apologies from two other board members that had hoped to be present but were unable to attend due to conflicts. **Chair McLaughlin** inquired about their Pull-tab games and why the income decreased. **Ms. Arnold** affirmed that in the past three years, they have experienced a 14 percent drop in their attendance. They believe a lot of their big Pull-tab players have left for other forms of gambling entertainment.

Commissioner Ludwig made a motion seconded by Commissioner Forrest to approve the Silver Buckle Rodeo Club

of Vancouver as an athletic organization and that they be authorized to conduct gambling activities in the state of Washington. *Vote taken; motion passed with four aye votes.*

6. HOUSE BANKED CARD ROOMS:

Club Fiji, Everett:

Chair McLaughlin advised that she would abstain from voting on this issue because under the existing circumstances she didn't believe she could have an open mind. She asked Commissioner Orr to assume her responsibilities as chair.

Derry Fries, Assistant Director, said this pre-license report is for Courtney Inc., doing business as Club Fiji Casino (Noriega, Inc) who has applied for a license to operate up to five tables of house-banked card games at the Club Fiji Casino located in Everett. Courtney Inc. was formed as a privately held corporation in Washington in January 2001. Barbara Franklin owns all shares of the corporation. Courtney Inc. does not hold any other licenses. Special agents of the financial investigations unit conducted a criminal and personal history background investigation on all substantial interest holders and initiated and completed a financial investigation of both the corporate and individual finances of the only stockholder, Ms. Franklin. During the course of the investigation, it was discovered that Ms. Franklin's son, and general manager Cynthia Noriega's husband, had a pending criminal action that at this time disqualifies him as a substantial interest holder. Prior to this meeting, the corporate president, Ms. Franklin, signed a pre-license agreement that excluded Mr. Noriega's participation in the business activities of Courtney Inc. and the operation of Club Fiji Casino. Special agents conducted an onsite pre-operational review and evaluation and the applicant was found to be in compliance.

Based on the results of the licensing investigation, the Pre-Operational Review and Evaluation and receipt of the Pre-Licensing Agreement by the applicant, staff recommends Courtney Inc., doing business as Club Fiji Casino be granted a license to operate up to five tables of house-banked card games. A copy of the pre-licensing agreement and a brief summary was included in the agenda packet. Ms. Franklin and Ms. Noriega were present to answer questions.

Commissioner Forrest asked if they had ever approved a license with this kind of questionable and unusual arrangement - having them approve a license excluding Mr. Noriega's participation, which the Commission wouldn't approve if he were involved, and yet Mr. Noriega's mother and wife are the parties involved. **Mr. Fries** said they have executed several of these, but it normally happens in the investigative process. If investigators find a substantial interest holder that is not qualified, they usually take steps to advise the applicant that they should be removed, which is similar to this case. **Commissioner Forrest** said he felt uneasy about this type of an arrangement. He asked if the criminal case was still pending and was informed the case had been held over until April 16th. Mr. Fries explained that Mr. Noriega was a substantial interest holder in Club Fiji and his wife was licensed as a corporate president of Noriega, Inc. at one time, and the Commission granted a license at that time. Mr. Noriega was also a substantial interest holder, and it would be through due process that the Commission would remove the license.

Commissioner Ludwig asked what the real arrangements are between Ms. Noriega and Ms. Franklin. He noted that within four days, one application was withdrawn and then the mother-in-law applied for an application. He asked what the mother-in-law paid for the business. **Mr. Fries** said the mother-in-law was a substantial interest holder during the application period because she loaned all the money for the business in the first place. She therefore had been investigated on previous occasions. Commissioner Ludwig asked if she canceled the debt and took it over herself. **Mr. Fries** affirmed. Commissioner Ludwig commented that this was a pretty close-knit family situation wherein Ms. Franklin was really the financial backer and when her son got in some hot water, she took it over in order to get the license, and her daughter-in-law is going to run the business. Mr. Fries affirmed, and added that the Commission tries to mitigate such occurrences as much as possible through the pre-licensing agreement. Commissioner Ludwig believed the only problem from staff's standpoint might be that as long as Ms. Noregia owns/operates in this enterprise, that even if she separated from her husband, this is still a community property state and he would have half interest. Mr. Fries affirmed and noted there is a rule that requires a spouse to maintain the same qualification as the applicant.

Commissioner Forrest said he was concerned about what appears to be a legal façade. He indicated that it was hard for him to believe this is really an honest arrangement. He felt that if the trial is on April 16th and if Mr. Noriega is acquitted or the case is otherwise disposed, there would be no problem with the original arrangement. Commissioner Forrest advised that he would be inclined to put this issue over for a month. In the meantime, in the event Mr. Noregia is convicted, the Commission would see what sentence the judge imposes and could look into the facts. Commissioner

Forrest reiterated that he didn't feel in his own mind that this is a truly legitimate arrangement. **Commissioner Ludwig** agreed and noted the relationship between the parties and the ease with which they replaced one application with another bothered him to some extent. Commissioner Ludwig asked if the business is operating now without the card room. **Mr. Fries** affirmed.

Commissioner Forrest made a motion seconded by **Commissioner Ludwig** to hold the matter over one month. Commissioner Forrest went on to say that the Commission would see what happens with the criminal trial and the problem may go away -- if it doesn't, the Commission could take another look. Commissioner Forrest advised that he was troubled if the Commission had approved this type of situation in the past and that he did not want to reinforce that precedent.

Acting Chair Orr called upon the applicants to respond to questions. **Barbara Franklin** and **Cynthia Noregia** introduced themselves. **Commissioner Ludwig** indicated their name sounded familiar and asked if they had another license. **Ms. Noriega** affirmed they hold one at Goldie's Shoreline located in the north Seattle. Commissioner Ludwig asked if there were any concerns over that license renewal in the last year or so. Ms. Noriega affirmed. Commissioner Ludwig asked how long that business had been operating. Ms. Noriega responded since June of 1999, and she explained the LLC is Epstein Noriega, which is Michael Preston, Nadine Preston, Sandra Epstein, Robert Noriega and herself.

Ms. Franklin emphasized that Mr. Noriega is not involved at all -- it is just herself and Ms. Noriega - she also explained that she used all of her mother's money to purchase the business. Ms. Franklin affirmed the family is a close-knit family. **Ms. Noriega** asked to speak for Ms. Franklin and said that basically Ms. Franklin invested money in this project in June of last year and that waiting another month would really hurt her financially. As far as the outcome of Mr. Noriega's trial, she affirmed they would not come back and try to change the ownership, their intention is to leave it exactly as it is right now.

Acting Chair Orr asked staff if the court date resulted in a conviction, what would happen to the license. **Director Bishop** said staff would have to look at the situation and circumstances. The crime that Mr. Noriega has been charged with is one specifically listed as a disqualifying act -- assault or harm to others is one of the listed crimes. Director Bishop clarified that the statute does allow the Commission to hold back any decision pending any action in court. He noted that although Mr. Noriega and his wife own a very small part of Goldies in Shoreline, that would be a different situation -- removing someone versus denying them in a licensing action. He said if he recalled correctly, the mother/son issue came up in relation to Goldie's and that it was Mr. Preston's license that was revoked by the Commission. Former Commissioner Heavey brought the issue up that the mother was the real owner and Mr. Preston, the son, was going to be involved in the operations, which is the precedent Mr. Fries was talking about.

With no further discussion or comments, **Acting Chair Orr** called for the question on the motion. Vote taken: motion passed with three aye votes. Chair McLaughlin abstained.

Cleopatra Club Casino LLC, Kennewick:

Derry Fries, Assistant Director, reported the name of this applicant is Cleopatra Club Casino LLC. The Cleopatra Gaming Management LLC is a substantial interest holder of the applicant. Cleopatra Club LLC has applied for a license to operate up to eight tables of house-banked card games at the Cleopatra Club Casino located in Kennewick. This organization is a limited liability company with 100 percent of the membership owned by Cleopatra Gaming Management LLC. The company headquarters are located out of Las Vegas. Eric Nelson solely owns 100 percent of Cleopatra Gaming Management LLC. They hold no other license at this time. Special agents conducted a criminal and personal background investigation on all substantial interest holders and initiated and completed a financial investigation of both the corporate and individual stockholder finances, which included their spouses. No disqualifying information was found. On March 19, 2001, special agents conducted a pre-operation review and evaluation in accordance with the rules of the Commission. The applicant was found to be in compliance. Based on the licensing investigation in the pre-operational review and evaluation, staff recommends Cleopatra Club Casino be licensed as a house-banked public card room authorized to operate up to eight tables.

Mr. Fries announced that organizational representatives were present: Eric Nelson, Owner-President, Shelly Newell, Controller, Jack Newton, Director of the Washington region, and Mike Eberstein, General Manager. **Eric Nelson**,

Manager, thanked the Commission for allowing them to appear. **Commissioner Ludwig** said he was generally familiar with the address on Gauge Boulevard, and that it seems to be a good location so far as not being located near any churches, schools or those kind of structures. Mr. Nelson affirmed it's in the commercial hub of the community and they are excited about the location. He believed the little casino facility and steakhouse would offer a new venue in the gaming market for that area.

Commissioner Ludwig made a motion seconded by **Commissioner McLaughlin** to authorize the Cleopatra Club Casino in Kennewick to be granted a license to operate house-banked enhanced card room with a maximum \$25 betting limit. *Vote taken; motion passed with four aye votes.*

Cleopatra's Wild Goose LLC, Ellensburg:

Derry Fries, Assistant Director, noted Cleopatra's Wild Goose LLC has applied for a license to operate up to 10 tables of house-banked card games at Cleopatra's Wild Goose Casino in Ellensburg. This casino is a limited liability company with 100 percent of the ownership owned by Cleopatra Gaming Management LLC. The company headquarters is located in Las Vegas. Eric Nelson solely owns 100 percent of the Cleopatra Gaming Management LLC. Special agents conducted criminal and personal history background investigations on all substantial interest holders, and initiated and completed a financial investigation of both the corporate and individual stockholder's finances, which include their spouses. There was no disqualifying information found. Special agents completed an onsite pre-operation review and evaluation in accordance with the rules of the Commission. They were found to be in compliance. Based on the investigation staff recommends Cleopatra Wild Goose Casino be licensed as a house-banked public card room authorized to operate up to 10 tables.

Eric Nelson returned to the podium and **Commissioner Ludwig** asked what part of town this casino was located in. **Mr. Nelson** said it is located on the outskirts of town, close to the freeway area and completely out of town.

Commissioner Ludwig made a motion seconded by **Commissioner Forrest** to authorize Cleopatra's Wild Goose Casino in Ellensburg be granted a license to operate house-banked enhanced card room with a maximum \$25 betting limit. *Vote taken; motion passed with four aye votes.* **Mr. Nelson** thanked the Commission. **Commissioner Orr** returned to gavel to Chair McLaughlin.

7. PHASE II REVIEWS:

Silver Dollar Casino, Mountlake Terrace

Cally Cass-Healy, Assistant Director, announced Special Agent Jeanette Sugai of the southwest regional office would present the reports. **Ms. Sugai** reported the Silver Dollar Casino is a commercial restaurant, lounge and card room located in Mountlake Terrace. The ownership consists of Tim Isley with 60 percent interest, Michael Isley with 30 percent stock interest and Tosau Saddler with a 10 percent stock interest. Tim and Michael Isley are both substantial interest holders in the Silver Dollar Casinos located in Tukwila, Sea-Tac and Tacoma. The Silver Dollar began conducting house-banked activities on September 14, 2000, and they are currently operating 15 house-banked tables including three Blackjack, three Spanish 21, one Let It Ride, three Fortune Pai Gow Poker, one Caribbean Stud, two Lucky Ladies Blackjack and two Three-Card Poker tables.

Staff conducted a comprehensive investigation including a review and observation of key operating departments. The review team compared actual operating procedures to those documented in the card room rules. The licensee's written internal controls were also compared to the card room rules to ensure compliance and consistency. The review of operating procedures was completed for the five key operating departments including gaming operations, the cashier's cage and count room, security, surveillance, and the accounting department. A review was also conducted of the organization's gaming and organizational records to ensure record-keeping compliance and that no hidden ownership or unreported third party financing existed.

The city of Mountlake Terrace was contacted to verify the licensee was current on all gambling taxes, and Mountlake Terrace Police Department was contacted to verify there have been no adverse impacts of the card room on the community. All the violations that were noted during the review were verified as corrected during follow-up inspections. Staff recommends that the Silver Dollar Mountlake Terrace will be approved for Phase II wagering limits.

Tosau Saddler, General Manager, and part owner of Silver Dollar Casino in Mountlake Terrace, reported the organization pledged \$50,000 to the Seattle Junior Hockey as a donation in support of that organization. He said they made that donation after being open for three months. He said they were planning to donate an additional \$100,000 in the near future. **Commissioner Ludwig** asked how many Silver Dollar Casinos there were at this time and Mr. Saddler said there were four. **Chair McLaughlin** asked the audience if they wished to speak to the issue, there were no comments.

Commissioner Orr made a motion seconded by **Commissioner Ludwig** to approve the Silver Dollar Casino for Phase II wagering limits. *Vote taken; motion passed with four aye votes.*

American Best Food Inc., d/b/a/ Café Arizona, Federal Way

Ms. Sugai reported that Café Arizona is a commercial restaurant, lounge, dance club, and card room located in Federal Way. The organization is owned equally by Mysung Seo and Hyun Jeong-Seo, husband and wife. The owners do not own an interest in any other card room in Washington. Café Arizona began conducting house-banked activities on October 12, 2000. They are currently operating 10 house-banked tables including five Blackjack, one Spanish 21, two Fortune Pai Gow Poker one Caribbean Stud, and one Progressive Blackjack.

A comprehensive investigation was conducted which included a review and observation of key operating departments, a review of operating procedures to verify consistency and compliance with gaming rules and the licensee's internal controls, and a review of gaming and operational records to verify record-keeping compliance and that no hidden ownership or unreported third party financing existed. The city of Federal Way was contacted to verify the licensee is current on all gambling taxes and the Federal Way Police Department was contacted to verify there have been no adverse impacts of the card room on the community. All the violations noted during the review were verified during follow-up inspections. Staff recommends that Café Arizona be approved to operate at Phase II wagering limits.

Commissioner Ludwig recalled there was a concern when the Commission approved their house-banked license initially and asked if that had been over six months ago. **Mysung Seo** responded it was six months. **Director Bishop** affirmed. **Commissioner Ludwig** asked how they were getting along with the city of Federal Way and the Federal Way Police Department. **Mysung Seo** said the relationship has been extremely improved and now they communicate very well and he believed they understand each other better. He indicated they learned their lesson that going against the city is not a very good idea. **Commissioner Ludwig** said he was pleased to hear that. **Chair McLaughlin** asked if their establishment was the one that had some sort of dancing. **Mysung Seo** affirmed they had a multi-cultural clientele, however, since conducting the house-banked card rooms, their lounge business decreased a little.

Commissioner Orr made a motion seconded by **Commissioner Forrest** to approve Café Arizona for Phase II wagering limits. *Vote taken; motion passed with four aye votes.*

8. PETITION FOR REVIEW:

Postponed until May.

9. OTHER BUSINESS/GENERAL DISCUSSION COMMENTS FROM THE PUBLIC:

Chair McLaughlin called for comments from the public.

Nick Peck, Silver Buckle Radio Club, Vancouver called into question the accuracy of the numbers on the "Comparison of Net Return Dollars to Organization" report distributed earlier and asked this be withdrawn for review and correction.

Chair McLaughlin asked if they made more money than reported. **Mr. Peck** responded that he is not saying that they made more money, but that he questioned the accuracy of the figures. **Mr. Fries** responded that he was unable to verify the figures at this meeting, however, he would check them and bring the report back next month.

10. EXECUTIVE SESSION TO DISCUSS PENDING INVESTIGATIONS AND LITIGATION:

Chair McLaughlin recessed the meeting at 2:35 p.m., and called for 15-minute executive session.

11. ADJOURNMENT:

At 3:05 p.m. **Chair McLaughlin** recalled the open public meeting and declared the meeting adjourned until 9.30 a.m., April 13, 2001.

**COMMISSION MEETING
FRIDAY, APRIL 13, 2001
MINUTES**

Chair McLaughlin called the meeting to order at 9:30 a.m., at the Heathman Lodge in Vancouver. Chair McLaughlin announced that Alan Parker would be joining the meeting at approximately 10:30 a.m., and the agenda would be adjusted upon his arrival for a continued discussion on the Executive Search Service addressed on Thursday. The following attendees were in attendance:

MEMBERS PRESENT:

COMMISSIONER LIZ McLAUGHLIN, CHAIR;
COMMISSIONER GEORGE ORR;
COMMISSIONER CURTIS LUDWIG;
COMMISSIONER MARSHALL FORREST;
COMMISSIONER ALAN PARKER (arrived at 11:00 a.m.)

OTHERS PRESENT:

BEN BISHOP, Director;
ROBERT BERG, Deputy Director, Operations;
ED FLEISHER, Deputy Director, Policy & Government Affairs;
CALLY CASS-HEALY, Assistant Director, Field Operations;
DERRY FRIES, Assistant Director, Licensing Operations;
AMY PATJENS, Manager, Communications & Legal Dept.;
JERRY ACKERMAN, Assistant Attorney General;
SHIRLEY CORBETT, Executive Assistant

1. MINUTES – March 7, 8 & 9, 2001, Pasco Meeting

Commissioner Forrest made a motion seconded by **Commissioner Orr** to adopt the minutes of the March 7, 8 and 9, 2001, meetings as presented. *Vote taken; motion carried with four aye votes.*

2. STAFF REPORT – LEGISLATIVE UPDATE:

Deputy Director Ed Fleisher reported yesterday was the cut-off for action on bills and he reported on the four bills still alive: SHB 1384 regarding executive sessions and the Open Meetings Act. That bill passed the Senate with a minor amendment. Mr. Fleisher was sure the House would concur and then it would be on its way to the Governor. The substitute bill eliminated the requirements that in certain situations there needed to be notice of the executive session and the recording of minutes. He noted this bill should not have any effect on the way this Commission operates. The language in the bill sets forth the allowable situations for executive session.

Chair McLaughlin asked if the Commission may go into executive session for contracts. **Mr. Fleisher** said this bill doesn't deal one way or the other with the contract situation. Basically, it says the Commission may go into executive session where litigation has been specifically threatened, litigation the agency reasonably believes may be commenced, or litigation or legal risks of a proposed action that the Commission may be taking. Mr. Fleisher explained this bill came about because of some actions by some of the cities in this state who tried to pose the argument that as long as their attorney was in the room, they could go into executive session.

Regarding our agency request legislation, the cheating bill, the news was not very good. Mr. Fleisher explained that yesterday was the last day for action and it had been on the floor calendar all week in the house. However, at the end of the day, it was not acted upon. Debate developed between the lobbyist for the criminal defense lawyers as to whether this should be a Class B or a C felony. When we first introduced the bill, we submitted it as a Class B felony. Staff spent a lot of time last week talking with the Legislature and from our point of view; we were willing to go either way. In fact, as a practical matter because of the way the sentencing grid works, it wouldn't matter if it were a B or C felony except in the rare situations where the accused already had a significant criminal record. Notwithstanding that advice, Co-chairman Clements was not willing to have the bill heard if there were going to be any amendments offered to bring it down from a B to a C, and despite our best efforts the bill didn't make it yesterday.

SSB 5575 is the bill allowing raffles by student groups. The House passed the substitute version, without any changes, and it is awaiting signature in the Legislature and will be on the way to the Governor. SSB 5905 is the waiver of sovereign immunity, and it passed the House late last week 96 to 0. The House put some amendments on the Senate bill. The first one being that the state's limited waiver of immunity applies only to those tribes that have a compact with the state. The second amendment was to place a six-year sunset on the bill to let the Legislature revisit it in 2007. That passed the House and is waiting concurrence in the Senate, which should occur in the next few days.

Chair McLaughlin asked what happened to and whether the Bingo bill could be revitalized. **Mr. Fleisher** affirmed the Bingo bill did not make it out of the original committee in either house. Chair McLaughlin asked if it could be tacked onto something else. Mr. Fleisher said that anything is theoretically possible, however, it is pretty unlikely. Chair McLaughlin called for audience and commissioner comments. There were none.

3. Electronic Facsimiles of Cards:

WAC 230-40-010; WAC 230-40-070:

Amy Patjens, Manager, Communications and Legal Department, explained that the system this manufacturer makes is called Digideal. Their attorney, Kent Caputo, approached staff a few months ago and suggested either getting this before the Commission as a rule petition or asking staff to bring it before the Commission. There are procedural deadlines that apply to filing petitions, so staff proposed the rule instead. Mr. Caputo is here today as well as representatives from the company to answer questions and demonstrate the system.

Item 3A is a rule that currently states that social card games must be played with one or more standard decks of playing cards. If this system is approved, the rules need to be changed to add electronic card facsimiles as another way to play social card games. Most of the changes are in Item 3B, and this rule would allow the director to approve electronic card facsimiles as long as certain conditions were met, including having the system tested by a gaming testing laboratory. The system needs to be able to produce accurate facsimiles of cards, randomly shuffle cards, and have some other security protocols. The manufacturer would pay all of the testing lab costs. Ms. Patjens affirmed that we currently have a company called Gaming Laboratories International Incorporated which is licensed by the agency to do this type of testing. **Chair McLaughlin** asked if this was the only company licensed by the Commission to provide that service. **Mr. Fries** affirmed and noted that another company has an application in. Ms. Patjens noted there was discussion last month about the testing process and how the system would work. She reported there are two letters from Gaming Laboratories International explaining the system behind Tab 4 of the agenda packet and that the information and the analysis may be helpful. Ms. Patjens advised that staff recommends further discussion because whether or not to allow electronic facsimiles of cards is a policy call. **Mr. Fleisher** clarified that if the Commission ultimately adopted this rule, it would change the rules that such games could be approved in the future. The Commission would not by its action specifically be approving Digideal.

Commissioner Forrest expressed concern that it is a simple thing to verify on the spot if something is wrong with a deck of cards or if they were short, which would not be true of this machine. He advised that he would be much more comfortable if it was technically possible for a representative of the Commission to physically take a piece of equipment to the testing laboratory to verify that it is or isn't functioning properly. He recognized a lot of work has gone into the development of this machine, but most of the rules are as much or more to protect the operator of Blackjack games as it is to protect the public. He felt this is a place where the operator could possibly take advantage of the public because manipulation of the "cards" could be possible and it would be very difficult to detect. **Commissioner Forrest** hoped

staff would talk to the proponents of this game while this rule is working its way through the system and see if there would be some feasible way that the game could be tested without a chance to correct whatever was done. He believed this would be highly desirable and it would certainly convince him that it's a good thing if there were some way to have either an on-the-spot verification or more realistically, a removal of some portion to a lab where it could be tested. **Mr. Fleisher** said that not only is it possible to do what Commissioner Forrest suggests, but it would be an absolute requirement. That is what is intended in the amendments to 40.070, under subsection C(1)(e) - it must provide a means of testing the computer software. This would be very similar to the on-site testing we do right now. There's a chip called an EPROM (Erasable/Programmable Read Only Memory) that has the program in it and that chip could only produce the kind of deck and the kind of game that the lab authorizes.

Chair McLaughlin asked if Mr. Fleisher was talking about the X machines. **Mr. Fleisher** said no, the testing methodology is similar to that that used on the X machine. It's a matter of testing the computer chip through a device called a Kobetron that indicates whether the chip inside the Digideal game has the right electronic signature. It tells whether the software being run is the same software that was approved by our lab. There is also a device that allows an agent to check on the spot in the facility. The other half of the security would be the requirement for locks and camera coverage. **Dallas Brunett**, Manager, Electronic Gambling Lab, said there would also be additional things like seals that would go over the chips or seals that go over the boards that have serial numbers. If someone opens up the cabinet or changes a chip, a seal actually breaks and staff would actually know on the spot if anyone opened or intruded into that device. The Kobetrons are more portable and can be used in the field. There are other policies and procedures that would be required to protect that particular device, by having all the chips audited at the lab or in the field, and training staff to deal with the problems as they arise. **Commissioner Forrest** was reassured.

Chair McLaughlin asked how players would be assured that all the cards in a deck are actually present. **Mr. Brunett** said staff would actually test that component in the lab by analyzing the database to make sure every single card is present. It would be the same kind of procedures used for the Tribal Lottery System. Winning test sets can be created that can test all the winners to make sure they're organized in a certain fashion. **Chair McLaughlin** said she meant in an ordinary deck of cards. **Keith Wittmers**, Card Room Coordinator, Field Operations Unit, responded that procedures are in place and when the facility opens up their decks of cards in the morning, they verify all the cards are in the decks prior to being placed in the shoes. The procedures are in place and the activity is conducted under camera coverage.

Mr. Kent Caputo, Attorney with Miller Nash in Seattle, representing Digideal Corporation introduced Larry Martin, Vice President of Digideal who provided a brief overview and display of how the game operated.

Mr. Larry Martin, Vice President and founder of Digideal Corporation, said it might be helpful to share a bit of the background of the invention of this technology. Because Nevada is the largest gaming market in the world, and as they began to develop this technology three or four years ago, they knew they would have to make sure that their products were legal and in compliance with the state of Nevada. They spent a great deal of time with the Nevada gaming labs to make sure they designed their technology in conformity with Nevada regulations. In addition, once their prototype game had been developed, they submitted the game immediately to Gaming Laboratories International and to the first two states that requested sponsorship (New Mexico and Michigan). Ultimately, once the EPROM has been tested by Gaming Laboratories, or has been tested by your own laboratory to determine that, indeed, there are 52 cards in the deck (or in this case six decks with 52 cards in each deck), it becomes sealed. There then must be some kind of mechanism in place to make sure that's not tampered with. Mr. Martin addressed the player's confidence in the game, and noted it would have to come from the regulatory nature of the industry with the technology. He agreed the players' wellbeing must be protected by the regulatory industry.

Commissioner Orr noted that if he went to a card room at 8 o'clock at night, he wouldn't see the opening of the decks of cards that were placed in a shoe. He would have to rely on the club and the agency to protect him and he believed this is the same thing: instead of a camera, there is a computer. **Mr. Martin** said both the paper card as well as the digital card facsimile would require the regulatory oversight to assure the player and public that their interests are being protected. The technology invented and patented is called the Digital Card System (DCS) and it is a system of shuffling, dealing and displaying cards as digital facsimiles. Referring to the game displayed, it is called Digital 21 which is simply the game of Blackjack. The reason Blackjack was selected was quite simply because it is the largest table game in the world. The shoe can be set anywhere from 1-12 decks of cards and they have programmed into the EPROMs virtually every rule of Blackjack that is played in every corner of the world, so the rules can be customized to the house

rules for whatever casino. Beyond that, the game is played identical to paper card Blackjack. The shoe has a monitor on it which shows the number of cards or at least where the cut card is in the deck and how many cards are left in the deck as the cards are dealt out. The back of the shoe has the commands of the game. There are five buttons in the back that say "deal" "hit" "stand" "double-down" and "split." The dealer simply implements the instructions of the player no differently than if he were dealing cards with his hands that were made out of paper, he simply is now dealing a digital facsimile of cards by pressing the appropriate button. The game is played with whatever house rules are in place regarding hand signals or verbal signals.

Mr. Martin advised the technology and the digital card system does require a dealer. They have been issued a patent on this system and an integral part of that patent is the requirement for a dealer. They have simply taken paper cards and digitized them as a digital facsimile. The frustration he encounters is that when the lawmakers drafted the legislation for the regulation of table games, the only available way to play a table game and the only card that was available came in a box that was wrapped in cellophane and was made out of paper. Therefore, legislation was almost always written around addressing paper cards and the process of handling paper cards. That has identified the need to attempt to change the language of the legislation to also acknowledge the existence of digital card facsimiles.

Chair McLaughlin inquired if he would be required to pursue the change legislatively, like the Bingo operators must do. **Jerry Ackerman**, Assistant Attorney General, responded that in his analysis of the statute and the WACs, it appeared to him that the Commission clearly has the option to allow electronic facsimile playing card games if it chooses to do so consistent with the requirements outlined in his written opinion. In other words, there can be no play directly against the device. It must truly simulate a paper card game. In order for the Commission to achieve that, at least with regard to the type of device that has been proposed here, it appears the only thing the Commission needs to do is to amend the WACs to provide an alternate definition for a standard deck of playing cards. Chair McLaughlin noted the WAC says standard deck. Mr. Ackerman agreed. The Commission can, he believed, using the language that's been provided in the amendment, achieve that result if they desire to do so.

Chair McLaughlin asked for public comments or questions for the Digideal Corporation.

Mr. Eric Derbing, Chief Financial Officer for the Muckleshoot Indian Casino, indicated they might be interested in getting some of these machines; however, they are concerned about the policy shift this entails. This is shifting table games toward machine gaming. In doing so, he believed it involved a different set of controls that need to be considered. He was encouraged by some of the comments with regard to procedures the state intends to put in place, but wanted to make sure they are very clearly identified and are very strongly enforced. He then asked several questions: Does the state envision having mandated inventory controls on the chips themselves – and if the state is going to do the verification of signatures – are they going to seal the chips in the gaming tables themselves - are they going to allow that to be something that's done by the operators - is this going to be something the state will be in doing periodic verification on the chips, and who are they going to authorize to do the controls on the game options, such as the number of decks in play versus the allowance on game rules such as splitting and doubling down? Mr. Derbing believed there are many options available and if they are not controlled, it does change the odds to the players and there has to be some notification to players in that regard. Mr. Derbing said there are also key control issues. There are audit issues to verify that, in fact, chips don't malfunction or have problems. Most of those controls fall under a gaming machine outline. It will entail the state taking a much more significant role and he wanted to make sure these issues are dealt with because that is where problems will arise.

Mr. Fleisher thanked Mr. Derbing for bringing these questions up and agreed staff would need to look at all the issues regarding the regulatory oversight. He noted that one of the conditions in the rule under C(1)(f) is that a licensee must meet any additional technical standards required and the lab would be looking at what technical standards are needed.

Bob Berg, Deputy Director noted that it highlight one of the differences in terms of the regulatory approach where staff are in partnership with the tribal gaming agencies who are independent. He affirmed that staff will be doing some intense research between now and next month with regard to one of the assumptions on potential agency impacts. It currently lists the impact as minimal, and he asked to reserve the right to revisit that issue and get some additional information back to the Commission. **Commissioner Orr** appreciated the well-thought-out comments. He expressed his confidence in the agency, that staff would find the loopholes, and he expressed his confidence in the industry to make sure this is a forthright business that is reputable.

Steve Strand of Big Brothers & Sisters, asked that the difference be explained between facsimiles of playing cards, Bingo cards, and pull-tabs, and why one is allowable per WAC versus having to go through legislative action for another. **Ed Fleisher** explained it would depend if the question is whether the Bingo cards can be in pure electronic form, for example, the current Bingo daubers actually have electronic cards on it. The Commission just requires a paper backup – while the language in the statutes is slightly different for Bingo and card rooms. He affirmed that is something staff could look at and ask the attorney general for an opinion about whether the purely electronic version of the card would be something this Commission could accept. Mr. Fleisher clarified that shouldn't be confused with the broader question of the Bingo machine legislation before the Legislature this session. The answer is different because it is not the same as going to electronic cards. The equivalent would be going to an electronic Poker machine or electronic Blackjack machine where the dealer was no longer involved and players put their money in the machine and punch buttons and the machine responds. Mr. Fleisher believed the distinction is that part of the game stays in its traditional form, a dealer deals the cards, collects the bets and so on. That might be possible in the Bingo arena, where the player pays their money to the cashier at the front and received their cards, but it eliminates the paper backup on the dauber. Staff could look into this.

Chair McLaughlin asked if anyone else wished to testify, no one came forward and the hearing was closed.

4. Petition for Rule Change by William Krapf :
WAC 230-04-190:

Amy Patjens, Manager, Communications and Legal Department explained this petition was submitted last month by Mr. Krapf, the owner of Buena Tavern, located in Yakima County. Last month the Commission voted to file the petition and start the rulemaking process. Currently, licensees who have a license fee of \$1,200 or more can pay their license fee at the beginning of the year and the other half six months later. This is a two-part payment plan and the agency has about 700 licensees participating in that plan. Mr. Krapf is asking that that threshold amount be decreased to \$800, which is what it was quite a few years ago. This is a change that would assist small business owners. Last month staff reported this change would make about 80 more licensees eligible. After further research it was determined that 480 licensees would be eligible to participate. Staff still supports this change even though the numbers would be higher than initially estimated. This change will impact processing time in the Licensing Division, and also affects the Business Office. They may now be getting two checks every year instead of one check, which will require some extra steps. The rule summary does say “minimal” impact and staff anticipates changing that to “some” impact. Staff anticipates the impact would be offset by the additional \$26 fee. **Chair McLaughlin** opened the discussion for public comments. There was none and the public hearing was closed.

5. Promotional Opportunities for Charitable and Nonprofit Organizations:
WAC 230-20-125; WAC 230-30-106:

Cally Cass-Healy, Assistant Director for Field Operations, explained that WAC 230-20-125 was an amendment to increase the number of promotional activities a nonprofit can conduct from 12 occasions annually to 18. Furthermore, language was added so that Bingo operators may offer an unlimited number of discount coupons for their games. **Chair McLaughlin** asked if there were questions. There were none.

Chair McLaughlin asked if there was any reason why the Commission shouldn't do this. **Ms. Cass-Healy** responded not from a regulatory standpoint. **Chair McLaughlin** asked if it could cause the small games problems. Ms. Cass-Healy affirmed there is a potential that when there's more competition, the small games may suffer more. She noted this was something discussed in the workshop sessions.

Commissioner Forrest made a motion seconded by **Commissioner Orr** to file the rule for promotional opportunities for charitable and nonprofit organizations as a pre-proposal statement of inquiry. **Chair McLaughlin** called for public testimony. There were no comments. *Vote taken; motion passed unanimously.*

Ms. Cass-Healy said that under the current rule (WAC 230-30-106), only commercial businesses can offer what is in slang termed “Happy Hour Games” for Pull-tabs in which prizes may be increased under certain conditions. This rule change would allow all Pull-tab operators, including charitable and nonprofit organizations, the opportunity to offer these games. It is limited for nonprofit organizations to only one happy hour game at a time, because staff is much more concerned with the tracking of proceeds in nonprofits than they would be in a commercial entity.

Commissioner Forrest made a motion seconded by Commissioner Orr to file the rule. **Chair McLaughlin** called for discussion. There were no comments and the public testimony was closed. Vote taken; motion passed unanimously.

6. **Card Rooms:**

WAC 230-08-027, 230-08-090, 230-12-072, 230-12-073, 230-40-050, 230-40-055, 230-40-610, 230-40-625, 230-40-630, 230-40-803, 230-40-805, 230-40-815, 230-40-820, 230-40-825, 230-40-830, 230-40-833, 230-40-840, 230-40-865, 230-40-870, 230-40-875, 230-40-855, 230-40-895, 230-40-897, 230-40-210, 230-40-500 and 230-40-505:

Cally Cass-Healy, said the first four rules in this package are mainly housekeeping changes to put subtitles into the rules for clarity and to reclassify them to Section 40 to go with the other house-banked rules. **Chair McLaughlin** suggested Ms. Cass-Healy go through them all first and then open them all for public testimony.

Ms. Cass Healy explained that 230-08-027, 230-08-090, 230-12-072 and 230-08-073 all contained housekeeping changes. WAC 230-40-050 contained housekeeping change in the references and adding subtitles.

WAC 230-40-055 – Card tournaments for fees and prizes. Language was added so licensees that utilize the rake method to assess fees may qualify tournament contestants based upon time played instead of monies spent. The old rule only referenced the actual money and that didn't work for a rake method. In Subsection 6, a complete set of rules is currently required to be posted in every advertisement. Staff thought that was redundant and unnecessary, as did the industry, and therefore deleted that requirement as long as they're posted on the premises.

230-40-610 – Player Supported Jackpots restrictions and manner of conducting an approval. Language was added in Subsection 3 to clarify that interest earned on PSJ funds are considered player money and licensees have no vested interest in them. Currently licensees are allowed to deduct a 10 percent fee from the PSJ to cover administrative costs and staff anticipates that will cover all the costs. Under Subsection 6, the rule requires owners and on-duty card room employees to show their cards at the end of each game. That relates to a "bad-beat jackpot" where the players are basically playing against each other to see who's going to win. If an owner or employee was playing, the perception was wrong, the requirement is that they have to show their hands so the other players can determine if they have a bad-beat hand. **Chair McLaughlin** asked if this applies to the house-banked and non-house-banked card rooms. **Ms. Cass-Healy** called on Keith Wittmers to explain the technical aspects of the game to them.

Ms. Cass-Healy addressed a final change, and recalled that Mr. Lee Taylor had petitioned the commission on how PSJs were awarded. Staff worked with Mr. Taylor to incorporate some of his suggestions in the rule. Staff and Mr. Taylor are both comfortable with the rule at this point. Licensees that discontinue a PSJ must now distribute PSJ funds back to the players within 60 days in a tournament offering the same type of game under which the PSJ was established, or in an approved promotion. That requirement is found in Subsection 9 of the rule. **Chair McLaughlin** asked if there were any questions pertaining to that part of the rule and there were none.

WAC 230-40-625 Closed circuit television system requirements and procedures. This rule clarifies the surveillance requirements for the two different types of licensees. Staff split it out for the Class F card games and the house-banked card games. In this particular rule, it sets forth the surveillance requirements for Class F and it includes coverage, general requirements on equipment, activities to be covered, and documentation and procedures. Finally, a section was added at the end for dispute resolution, which explains that in the event there is not sufficient clarity to fully resolve any dispute that arises, the dispute will be resolved in the favor of the player.

WAC 230-40-630-Count procedures. The count procedures for Class F card rooms have now been moved to a new separate rule. This again is one that has been split out for clarity between Class F and house-banked card games.

WAC 230-40-803 Phase II wagering limits. There have been times when a licensee has been approved for initial house-banking and because of the way Commission meetings fall, their six-month date for approval to go to Phase II limits may fall a day or two or three days after the formal Commission meeting. This language was added in order to allow them to be approved either in six calendar months or six regularly scheduled Commission meetings from the date of approval. **Commissioner Forrest** asked whether a licensee would have to wait to the next meeting if their six calendar months fell shortly after a Commission meeting, and if the alternative was six Commission meetings, what would happen then. **Ms. Cass-Healy** said that would depend on the Commission, however, she assumed staff would recommend they were

approved to open on a given date at Phase II wagering limits. **Chair McLaughlin** verified the Commission could hear the case and make a decision, but the licensee would have to wait the full six months. Commissioner Forrest said he understood, that made some sense, although he didn't think the Commission ought to approve something that's going to be 21 days. Chair McLaughlin agreed. Ms. Cass-Healy said she would clarify that next month. **Commissioner Ludwig** said he was personally opposed to this rule, he believed the Commissioners ought to let the director make that determination without reference to meeting dates.

Director Bishop explained the requirement in Subsection 1A is that the licensee operates for a minimum of six months. The timing of bringing it before the Commission is a technical issue. He believed staff should be able to have the flexibility to bring the applicants before the Commission and report that we've done our Phase II Review and we're asking the Commission to approve them effective on that sixth month. **Ed Fleisher** said he was not sure they would need a rule if the Commission directed staff to do that. He provided an example, the November meeting tended to be held a week later and this year, the November approvals will be on the 15th of November – the meeting six months prior would have been held on the 10th of May which is actually four days short.

Mr. Fries pointed to the paragraph under Subsection 1, and noted that if “requesting” was changed to “receiving”, we could get the desired result. **Director Bishop** recalled a point of discussion during the pilot program, and in one case staff brought someone before the Commission that had not operated for six months prior to the meeting. While he believed the license was approved, there were comments regarding following our rules, and since that point in time, staff have waited until at least the sixth meeting to bring them before the Commission. There have been two or three cases where a couple days mattered. Director Bishop thought that if the Commission instructed staff that the real issue is not doing the work before the fifth month and to bring them forward in the sixth month with the understanding that after six months passed, that they could go forward. **Commissioner Ludwig** responded that as near as he can recall, they have never denied a Phase II increase when it came before the Commission. He also recalled early last year when they were running into backlogs because of the volume, that the director was granted the authority to make that increase even before the Commissioners heard the Phase II Review. Commissioner Ludwig didn't understand why we were struggling with this particular problem -- if they're licensed and they've got their six months operation, and staff conducts the review and the director is satisfied, Commissioner Ludwig thought the director should have the authority to grant approval without seeking the Commission's approval. **Commissioner Forrest** asked if he didn't think there should be any Commission approval for moving to Phase II. Commissioner Ludwig said he didn't think they need it and Commissioner Forrest disagreed. He believed the formality of coming before the Commission was needed because it provides the chance for anybody in the area to complain or express qualms. He supported the suggestion that the licensee may request it prior to six months, and if the Commission wanted to approve it to be effective when the six months elapsed, that would take care of the person whose six-month's period would be just a few days after a Commission meeting. At that meeting the Commission could say the approval is effective whenever the six-month day would be -- it would be easy enough to redraft the language to say that prior to approval for an increase to Phase II limits, the licensee shall operate for a period of six months. **Mr. Fleisher** advised that staff would bring back an alternative next month that would in effect say the licensee could ask for approval prior to the six months.

Ms. Cass-Healy clarified that what is being proposed in Section 1 is that prior to receiving approval for Phase II limits, a licensee shall operate for a minimum of six months and then delete the new language that was added. **Chair McLaughlin** said she didn't agree with Commissioner Ludwig. She believed the approvals for a Phase II betting limit upgrade should come before the Commission. **Commissioner Ludwig** responded that it seemed the Commissioners are inconsistent with the authority they give the director. The very last paragraph of this rule is the directive of authority to let a brand new operator continue at Phase II. He questioned where that discretion is if the licensee buys an existing business. **Commissioner Ludwig** couldn't understand why the director couldn't exercise some discretion in letting an operator with six months experience go to Phase II wagering limits if he can let a brand new purchaser who's been checked out and licensed operate at Phase II. It didn't seem consistent. **Mr. Fleisher** noted the Commission could choose to file this rule today as is, that doesn't restrict the ability to have staff come back with alternatives next month as suggested by Commissioner Forrest and Commissioner Ludwig. As far as the filing the rules, all those would fit within the substance of the rule and wouldn't require a new filing if those changes were made.

Director Bishop explained that in granting the discretion in Subsection 6, the Commission gives staff the authority to approve this; it gives the Commission the right to request staff to put certain conditions in place that allows the approval of a licensee to remain at Phase II if they keep the same management staff – the people that have been doing that type of

work. They can't come in, buy a place, shake up the management and put new controls in place -- if they do that, they go back to Phase I and have to go through the process. **Chair McLaughlin** felt that Subsection 6 didn't say that. Director Bishop said staff may review the operation in terms of compliance. **Chair McLaughlin** affirmed, however, it doesn't say that if management has changed, etc., that they may go back to Phase I, and maybe that needed to be inserted. Director Bishop indicated the Commission may be placing additional handcuffs on the director and staff for dealing with these issues. **Jerry Ackerman**, Assistant Attorney General, agreed with Director Bishop. However, the language in Subsection 6 would probably allow the director to say going back to Phase I appears to be a purely discretionary act. The second line says that the director may authorize the new licensee which would imply that he doesn't have to. It also says that the director shall exercise that discretion if the new licensee demonstrates that the gambling operation and internal controls will remain substantially unchanged. There is a clear path for the director to not approve the Phase II to the new ownership if it appears that something has significantly changed.

Chair McLaughlin asked if an owner turned down by the director may still have the opportunity to come before the Commissioners. **Mr. Ackerman** didn't think so -- at least not under Subsection 6. Chair McLaughlin noted the director actually has a lot of power and Mr. Ackerman agreed. **Mr. Fleisher** said the language was put in to give flexibility for sales when the business wasn't really going to change; and would also apply in a case of inheritance if the ownership changes due to a death and inheriting the property. If the director was comfortable that they intended to continue running the business just the same as before, such an event wouldn't make them go back to Phase I. Mr. Ackerman indicated that if the changes were made in Subsection 1 as suggested, that "prior to requesting approval for Phase II limits" should be changed to "prior to receiving approval for Phase II limits." In effect, on those rare cases when the Commission had someone whose six months elapsed a couple days after the meeting, they would be granting a conditional approval of the license because some of these other sections, for instance, 1(a) says a licensee shall operate for a minimum of six months. Unless changes are made to some of those other subsections, they would actually be granting a conditional approval which in essence said to the director and to staff, to make sure that for the next two days or whatever, that none of these things (like administrative actions) are pending; that the licensee is not currently under investigation by the Commission or their law enforcement agencies -- they would be saying to them, you're going to have to update the work that you've done for the two days or seven days to make sure that none of those things have occurred to stay consistent.

Mr. Fries addressed the first part of the rule, specifically the third line and asked if we scratched "receiving Commission approval" to "receiving approval" and left the receiving language there, then the Commission by policy could say that what we mean by approval is either the Commission provides the approval or delegates that to the director.

Commissioner Forrest noted there is a split in the Commission, and he thought it was pretty clear that if the Commission approves a license they can approve a license effective on a given date. Commissioner Forrest felt it would be an extraordinary construction of the rule to say one couldn't approve it with an effective date. Unlike Commissioner Ludwig, he thought that the Phase II was a nice checkpoint to come before the Commission for approval. What we normally get is a request made months or many weeks in advance. Staff conducts the inspection and they find the mistakes and the licensee corrects them. By the time it comes to the Commission, staff is able to say the deficiencies have been corrected. **Commissioner Forrest** recommended that staff bring forth a couple of alternatives. His desire would be that the licensee could request when they want a request and staff could bring it before the Commission when they're ready. The fact that the Commission's approval may become effective a few days after the meeting would be perfectly consistent with Commission approval and wouldn't need any special language. **Mr. Fleisher** advised that staff would bring forth the alternatives next month. **Chair McLaughlin** believed the rule was good the way it was, but this would provide a choice.

Ms. Cass-Heally addressed 230-40-805 Progressive jackpot prizes. This rule requires licensees to pay progressive jackpot winners immediately and insures that winners receive all monies within a reasonable timeframe from the pot being won. Staff understands there are checks and balance procedures that the licensees have to go through, therefore, "immediately" could mean an hour or two hours, but not 24 hours. The next change was to allow licensees to reduce non-advertised reserves or secondary jackpots and claim the money as gross receipts. We currently prohibit reducing the reserve or secondary jackpots. Staff believes these funds, as long as they are not advertised to the public, are house funds. The house has an interest investment in those funds -- that change is under Subsection 3. In the past it hasn't been clear how licensees should disburse advertised progressive jackpots to players in the event they discontinue a game and the language was added to clarify how this will be done. Under section 3(c), staff added language to allow licensees

to award merchandise prizes for jackpot funds.

230-40-815 Administrative and accounting control structure. This is mainly housekeeping, but was also amended to clarify that licensees shall inform their employees of internal controls related to their job and insure that the controls are followed at all times.

230-40-820 - Is a suggested repealer. Currently, staff conducts four compliance modules per month in various gaming areas of each house-banked gaming facility. In addition to these modules, licensees with annual gross receipts exceeding \$5 million must pay for and undergo formal review by an independent auditor each year. Staff feels that oversight by both of these parties regarding internal controls is redundant. Letters from service suppliers and CPA's were submitted for the Commissioner's consideration. **Ms. Cass-Healy** explained that a compliance module is a type of program that a staff person can take out to the licensee and it basically tells what kinds of things can be looked at to achieve some objectives. **Commissioner Forrest** asked if they do four a month. Ms. Cass-Healy affirmed that was the goal right now. **Director Bishop** affirmed staff would be facilitating the modules at each location, which is four times each month. Commissioner Forrest asked what be examined and how many times per year. **Keith Wittmers** advised there are approximately 15 different modules per establishment. Each module would be 1/15 of their total internal control package. Throughout the year staff would see all the areas on a quarterly basis. Mr. Wittmers reported that most of the modules are set up to be done quarterly. Ms. Cass-Healy said that if staff does four a month, that means 12 per quarter. **Commissioner Forrest** asked if this had been working satisfactorily and if staff was satisfied that this was adequate. **Director Bishop** affirmed, and commended the staff who worked through this and found that the level of regulation was adequate, which allows dropping the redundant requirements.

Director Bishop noted the larger organizations, in fact, are required to have the audit. A part of the audit is to evaluate the internal controls to see if they're adequate to protect the assets and to report the results of the activity and also to test to see if they are being followed. This gives staff another level of oversight. [**Chair McLaughlin** welcomed Commissioner Parker to the meeting at 11:00 a.m.]

230-40-825 Closed circuit television system house-banking. As in WAC 230-40-625 staff deleted the requirements for Class F under this rule and moved it to another rule for clarity. This explains the requirements for house-banked games. Total coverage is required which would be the main difference between the house-banked and the non-banked games. There are usual formal cages, formal count processes that would need to be covered under house-banked games. Exits and entrances are required to be covered, so there are some significant differences in the requirements which necessitated splitting them out.

230-40-830 Cashier's cage requirements. House-banking. This rule change allows house-banked card rooms, which also offer Poker games to sell chips, through a window at the main cage or other location approved by Commission staff. It's a better system of keeping the record keeping and the accountability of the chips separate if the operation has two different types of gaming.

230-40-833 - Housekeeping only.

230-40-840 Drop boxes, house banking, drop box collection. This was amended to allow counting members to remove boxes from gaming tables under the supervision of security if the card room entrance and exits are locked. It also allows licensees to store empty drop boxes on gaming tables if the boxes and tables are taped by surveillance cameras. This codifies current practices.

230-40-865 - Language was amended to allow a licensee security officer access to the fill credit machine only for the purpose of clearing paper jams. 230-40-870 - The language was amended to allow a licensee security officer access to the fill credit machines to clear paper jams.

230-40-875 - The rule is clarified to show how a licensee will handle voided closing documents.

230-40-885 - Subsection 8 outlines count requirements for non house-banked card rooms. It's been moved to a new separate rule. Subsection 5(i) has been removed because it is not consistent with the records required in our record-keeping packet.

230-40-895 - The change further defines key lock mechanisms for the type of key boxes that are allowed. It also was amended to separate the security and surveillance departments.

230-40-897 - Language was added to further define the parameters and requirements under which licensees can offer promotions in conjunction with card games. There was a lot of confusion about what is a promotional contest of chance and what is a card room promotion. People were mixing and matching types of things and staff couldn't figure out which were legal or not. This helps clarify a card game promotion and takes out the requirement for staff to approve every promotion.

230-40-120 - Limits on wagers is housekeeping - the references needed to be changed.

230-40-500 - This is also housekeeping and was split out into two sections for house rules, one for card rooms and one for nonprofits.

Chair McLaughlin opened the meeting for public testimony.

Chris Kealy, Cascade Gaming, manager of two enhanced card rooms, addressed WAC 230-40-803- Phase II wager limits – the Phase II betting limit increase – and the \$100 limit. He believed the Phase II limit increase at the end of 180 days is meant to be a community opportunity of review. He believed the community needed an opportunity at the end of six months to report if the activity has been or has not been detrimental to their community. Mr. Kealy thought it would make sense to have the transferring of business licenses under the sole authority of the director if the operation has been operating in the community six months or longer. The community would have had an opportunity to review what the impact has been in their area; and the only difference would be a transfer of ownership and operation via death, via sale, or whatever initiated the transfer. He cautioned it could put the operation in an awful roller coaster if they were rolled back to the \$25 limit every time they transferred. He believed the director has done a great job understanding his authorities and knowing what the Commissioners want to look at. Mr. Kealy suggested that as staff writes up the three options next month they consider the community comments at the end of 180 days.

Mr. Kealy addressed WAC 230-40-805, Section 2, clarifying that the prizes on progressive pots must be paid out immediately. Mr. Kealy advised that he needed a business day (more than 24 hours), because he has checks and balances relating to how the pot was won. For example, there are two winners, one is the player and the second is the IRS. Mr. Kealy advised that because he's the trustee on the account, he needs to make sure that both winners get paid. **Chair McLaughlin** asked how Nevada does it, they also have to pay the IRS. Mr. Kealy said they have hundreds of tables and 6,000 machines. They might have an army of accountants up at any given moment of any single day. **Mr. Kealy** advised that he only has 15 card tables and one PSJ progressive pot in a facility. He addressed the economies of scale and checks and balances. He reported that there are a lot of things that need to go into place to make sure that there's accountability; for example, getting the right amount of money to the player, making sure the hand was clear and legal to begin with, making sure the right amount of taxes are withheld, the right notifications are made, and that the right departments come together to make those decisions. He advised that he doesn't leave that authority with one person in the middle of the night on a Saturday. He emphasized that he'd like to have a business day. **Chair McLaughlin** asked him to explain a business day. Mr. Kealy said it's not always 24-hours, however, it could be depending on the day of the win.

Commissioner Forrest asked for the staff's reaction. **Director Bishop** said it's a player issue from his perspective. The prize is advertised to the player and should be paid expeditiously. Mr. Kealy is saying he has to make sure the player meets the conditions. Staff would hope there's someone at the premise who can ascertain that has occurred and can pay the winnings. Director Bishop noted the owner is responsible for meeting the IRS requirements, and must meet the IRS requirements 24 hours a day if they're open 24 hours a day. Director Bishop said the regulator's issue is to make sure that the process for paying winners is up front, legal, and honest, and that payment should be executed in a reasonable amount of time. The player should be able to walk out the door with his prize -- if it takes a couple of hours, that is a different issue than coming back Monday morning after winning on a Friday night. **Chair McLaughlin** asked how the lottery handles the win payments. Director Bishop said the lottery handles it via their advertising and the winner goes to the lottery office to get paid any prize over a certain limit. It is clearly advertised that if one wins, they have to go to the

lottery office to get it verified.

Chair McLaughlin indicated the operators might need to have an advertisement on things that happen on Saturday night. **Mr. Kealy** suggested a sign on the table that says prizes would be paid within one business day. **Director Bishop** asked what happens if someone wins the \$110,000 jackpot --does it immediately show as being won, or does it accumulate. **Mr. Kealy** said it goes off the meter immediately and is then keyed off. **Director Bishop** responded that if there is a dispute resolution, wouldn't it be harming people playing after that point. **Commissioner Ludwig** affirmed absolutely, and **Chair McLaughlin** agreed. **Chair McLaughlin** asked if the Lottery office was open on Sunday? **Director Bishop** advised the Lottery Office was not open during weekends. **Director Bishop** also noted the player has up to six months in which to cash a winning ticket. **Chair McLaughlin** asked if there is some accommodation the Commission could make in this situation.

Mr. Fleisher said the lottery is somewhat different in a lot of respects. The Commission does not regulate it. He agreed that from the player's point of view, it would be best if they could get their winning prize as quickly as possible. There are certain things that have to be done, being sure, through surveillance, that it was actually won and that the IRS forms are filled out, which could take a matter of hours, but if the staff was there, that's all it would take. We're really dealing with economies of scale, and a staffing issue. Las Vegas casinos have large staffs and they're open 24 hours a day. The real issue here is at this size of the operation. **Mr. Fleisher** asked to what extent are we going to require that through delegation of authority or through having the right staff available or to be available on pagers, or whatever, that they contact someone within some reasonable period of time, to get that wager paid off. **Chair McLaughlin** asked how much of a problem this has been. **Director Bishop** said he had not received any complaints so far. **Ms. Cass-Healy** said she knew of one complaint. **Commissioner Ludwig** asked **Mr. Kealy** what level of supervisor did he have available at any particular time or at all times. **Mr. Kealy** said the actual fact is that if someone wins the prize on Friday or Saturday night, the player gets \$5,000 cash immediately if they want it, and that he always has a shift manager on site when gaming is running. **Mr. Kealy** said he gives them authority up to \$5,000 out of the cage, anything above that level has to go to checks and balances. **Chair McLaughlin** verified that if **Mr. Kealy** was on the premises, the player could get paid immediately. **Mr. Kealy** said that is not true because it still has to be signed off by the accounting supervisor, who audits that account and is a trustee over that account.

George Teeney, owner of the Last Frontier New Phoenix in LaCenter, agreed with **Mr. Kealy**. He affirmed it takes two people to sign the checks off in his club, and he is very sensitive to the fiduciary responsibility to the customers, and his staff wants to make sure the funds are paid out accordingly. All the surveillance has to be done, all the paperwork found, and then the player is given some counseling. **Mr. Teeney** affirmed business hours are the standard way that they pay.

Mr. Teeney reported that staff had worked well with him in a variety of the rule changes. However, he believed staff is wrong regarding WAC 230-40-610. He said he is one of the unique people in the state. He has Poker in his house-banked card rooms and he's had to do exactly the same kinds of things that he has to do in his house-banking room, which is surveillance, internal controls, and supervisory help. People with just Poker in their rooms are allowed to take a lesser restrictive role in operating their businesses than he does because he's also under the house-banked rule. That points to some inequities. If anyone in a house-banked room gets a house-banked jackpot (like the Caribbean Stud that has the \$112,000 posted over the tables), if situations are right, that individual can get \$112,000 cash. They can get \$5,000 in cash, and the rest in a check. The check, if the money is available on site, could be cashed on site. However, in the Poker arena, the maximum they can pay to their players is \$500. They can write the winner a check, but the check cannot be cashed in the facility. **Mr. Teeney** noted that he is under the same guidelines that the Blackjack tables have to live by, and yet he can't enjoy some of the same aspects of the Poker tables. He indicated that staff advised him this issue was a policy decision. **Mr. Teeney** felt that it didn't make any sense to him that if the guidelines were the same, why payouts for Poker winners is treated differently than Blackjack

Mr. Teeney also addressed WAC 230-40-803 dealing with the Phase II wager limits. If someone operates a house-banking room for six months, they are at \$25 limits, and after the six months they may go to \$100 if approved by the Commission. He noted that he has Poker in his facility and Poker has a \$25 maximum bet. **Mr. Teeney** emphasized that he is following the exact same rules, regulations, surveillance, security, IC's and everything as the house-banked games. Yet he is restricted to a \$25 betting limit. He believed it would be reasonable that if someone operates a Poker room under a house-banking issues for six months and wanted to increase to the \$100 limit, they should be able to do so.

Director Bishop verified if the gist of **Mr. Teeney's** message is wanting \$100 Poker limits. **Mr. Teeney** responded that

he wanted to match the limits of the Poker tables with his house-banked limits. **Chair McLaughlin** asked for a show of hands how many more people wished to speak on these rule changes. No one raised their hands and she closed the public hearing.

Commissioner Ludwig made a motion seconded by **Commissioner Orr** to file these rules for further discussion.
Vote taken; motion passed with five ayes.

4. Executive Search Service – Continued Discussion:

Chair McLaughlin announced that as she had noted earlier in the day, they would interrupt the agenda to address the issue regarding the executive search process for a director once Commissioner Parker arrived. She called Mr. Stenseng forward to respond to questions from the full Commission.

Mr. Stenseng sincerely apologized to the Commission for the necessity to have to have him appear today, and for causing a problem that he did not intend to cause. He advised his motives were well intended and honorable. **Chair McLaughlin** responded that the most troubling fact, was a matter of trust. She noted that she had asked a specific question yesterday and Mr. Stenseng evaded the answer—or was not completely truthful when she asked how did people already hear about this position. Mr. Stenseng had responded that he had made a couple of phone calls. Chair McLaughlin noted the recruitment announcement had been on the Internet since at least April 6, 2001, and probably even sooner than that date.

Mr. Stenseng again apologized, and said that was not a purposeful omission on his part. It just didn't come into his mind to say that he had a temporary draft posted on our Website. **Chair McLaughlin** noted that it didn't say "draft." Mr. Stenseng affirmed that was a mistake in judgment on his part. He said he was over-zealous in wanting to get a jump on things. He had intended to put that on the Website, and as soon as yesterday's meeting was concluded, replace the draft with a final version. Mr. Stenseng admitted it was a mistake in judgment to put anything on the Website until the Commissioners had finalized the product.

Chair McLaughlin commented that she didn't think the Commission had even hired Mr. Stenseng yet. **Mr. Stenseng** responded that was a second mistake – he had assumed, based on an April 3rd e-mail that he received from staff that the contract had been signed and was in the mail for signature. Mr. Stenseng thought that meant the Commissioners had made their decision to employ the services through the Department of Personnel (DOP). Chair McLaughlin responded that if that was the case, perhaps there had some miscommunication from her point too. Mr. Stenseng provided a copy of the agreement, and Chair McLaughlin apologized for the miscommunication. Chair McLaughlin asked what Mr. Stenseng thought he was appearing at the Commission meeting for and Mr. Stenseng responded that he thought it was to reiterate that the schedule was okay, the strategy was okay, and whether there were any other changes the Commissioners wished to make on that announcement. Chair McLaughlin noted the announcement had already been released. Mr. Stenseng affirmed posting it on the Website with the belief that if there were any changes he would immediately change the announcement.

Chair McLaughlin noted there were three choices: either to hire the Executive Search Service, and/or, decide not to use DOP's services, or because of the matter of trust, the Commission could decide to use the services and ask for another recruiter. Chair McLaughlin apologized that she was unaware there was a signed contract and asked if the Commission was bound by the signed contract. **Director Bishop** responded that it was his understanding (at the end of the last executive session last month), that he was instructed to hire DOP's service. Upon returning from the last meeting, Director Bishop affirmed that he informed Phyllis Halliday, the agency's Human Resource Manager to start that process. **Commissioner Forrest** and Chair McLaughlin thought that was a reasonable understanding. **Mr. Stenseng** noted that based on the e-mail, he assumed the Commission had blessed the whole decision and he jumped the gun in trying to get things rolling.

Chair McLaughlin asked for clarification whether this discussion is required to be in a open public meeting, or whether the actual discussion could be conducted in executive session? **Jerry Ackerman**, Assistant Attorney General, responded that there is a portion of this situation that would be appropriate for executive session, and there are other parts that would not and should take place in the open session. **Mr. Stenseng** responded that he was accountable for his mistakes, and was willing to conduct this discussion in public if that is what the Commission wishes.

Commissioner Ludwig noted the one thing that bothered him was that some Commissioners had suggested changes; that he wanted to put a range rather than the current salary, and Commissioner Forrest wanted to delete the affirmative action form. Commissioner Ludwig noted that Mr. Stenseng discouraged the Commission on each of those points quite successfully and asked if he had discouraged the Commission because the announcement was an already posted. **Mr. Stenseng** gave his word that that was not the case, that it really was just an error in judgment about his tactic to return from the meeting and make any and all changes the Commission desired. The template was a Microsoft Word document, and any changes would have been sent to DOP's Web Master to replace the existing document with the final version. Commissioner Ludwig asked how many drafts were there. Mr. Stenseng responded, the original which he believed originally had the maximum salary is \$102,000. Then based on a conversation he had with Madam Chair, she suggested a salary range. **Chair McLaughlin** affirmed and noted the announcement on the Web was the original draft with none of the already suggested changes. Mr. Stenseng affirmed and noted that in conversation with another commissioner, there was a different idea about what the salary statement might say – so there are really two versions and the second version contained the change in the salary statement. Mr. Stenseng clarified that in his telephone conversations with each commissioner he was trying to get some sense on how they felt the wording should be. Given that there were different ideas about that, he apologized for putting anything on the Web until the results of yesterday's meeting.

Chair McLaughlin asked her fellow Commissioners how they wished to proceed. **Commissioner Forrest** responded that unless there's a need for some legal advice he wished to proceed in open public session.

Mr. Stenseng emphasized that it is imperative that there be implicit trust between the recruiter and the client. He reaffirmed that he didn't have any intention to violate that trust, but through a bad decision on his part that occurred. He advised that he would be willing to step aside as the recruiter and have one of his colleagues take his place. **Chair McLaughlin** appreciated Mr. Stenseng's comments.

Commissioner Forrest indicated that he wasn't very satisfied with the discussion about the voluntary affirmative action information. Since Commissioner Parker was not with us yesterday, the Commission was divided on how appropriate this is. Commissioner Forrest asked Mr. Stenseng to briefly summarize why he and DOP thinks sending out voluntary affirmative action form is a good idea. **Mr. Stenseng** responded that it is pretty much statewide policy and practice in all recruitment matters throughout state government across the board. Commissioner Forrest verified there was no WAC statute requiring use of the form. Mr. Stenseng could not provide legal answer, but noted that in the nearly 22 years with state government, it was his observation that it had been a uniform practice throughout the state. Commissioner Forrest asked if this is a good policy and if so, why. Mr. Stenseng affirmed for two reasons: because the statistics gathered help DOP in determining if they are being effective in their outreach to the various communities addressed. Mr. Stenseng also shared that he personally felt that was beneficial because it sends messages to those communities that their state government is interested in their participation and interested in diversity in the workplace; and that state government is interested in encouraging and outreaching. **Commissioner Parker** noted that he had interpreted what the Commission was trying to do was to make sure that there's outreach so that the pool of candidates the Commission can consider for this position included a diverse range of people, including people of color or ethnic diversity as well as other types of diversity, and that the government has an interest in making sure that public officials are reflective of the constituency that's served. **Mr. Stenseng** affirmed and offered his personal opinion that it is probably a good business practice as well.

Commissioner Parker noted he reviewed Mr. Stenseng's recruiting plan which includes sending notice about this recruitment to professional associations, government agencies and Washington tribal organizations. He questioned what DOP actually does to contact those organizations, and do they identify an actual person/individual contact; does DOP follow up in terms of communication with them to make sure this isn't just something that was sent in the mail or sent via e-mail and nobody ever paid any real attention to it. Commissioner Parker believed a follow-up would be a lot more effective than sending out a voluntary affirmative action form which, granted, sends some kind of signal, but would pale in comparison to an aggressive, effective outreach that included a personal follow-up. In addition, Commissioner Parker believed the list of organizations identified was a good start, but there were clearly are a lot of organizations which are comprised of members who represent these different diverse populations and groups -- for example, the Urban League. Commissioner Parker asked what kind of experience DOP had in doing that kind of effective follow-up? **Mr. Stenseng** drew attention to the italicized note that indicated this list was not all-inclusive. The list was an illustration to get a check from the Commissioners and staff about whether the listed groups made sense. He affirmed the Urban League was

a good idea. Mr. Stenseng advised that the way DOP addresses the recruiting process is through e-mail contacts and several hundred phone calls to individual people. DOP attempts to determine who the key players are in terms of good sources and who potential candidates might be and tries to work the sources to gain leads on potential candidates. We ask our contacts who in their community we should be contacting, and who would be good candidates. That practice is also followed for the outreach to various protected group communities in our state.

Jerry Ackerman, Assistant Attorney General noted that he had a legal concern about the job announcement, which was pulled off the Internet relating to the affirmative action question that Commissioner Forrest raised. He affirmed that the affirmative action questionnaire didn't trouble him greatly, and believed most agencies in state government still use that kind of a format. Mr. Ackerman indicated that his concern was that the job announcement says, under the application process, those interested in this position may apply by submitting a current resume, a complete list of five references, affirmative action information, and a letter of interest specifically addressing the qualifications listed in this announcement. This does not suggest this is optional, in fact, it suggests the application is going to be incomplete unless the applicant supplies this information. Mr. Ackerman noted that after Initiative 200, this does become a significant legal problem and wondered how many candidates it may chill from applying in the first place of whatever nationality or race who simply do not want to answer those questions. **Mr. Stenseng** affirmed that perhaps the word voluntary should appear in the statement; it does appear on the actual form. He affirmed that candidates routinely apply without completing the affirmative action form and they are processed just the same as any candidate who does. Mr. Ackerman indicated that his concern related to the applicant and if they read the job announcement as structured, they may never even apply for the position because they aren't interested in responding to the affirmative action form. Mr. Stenseng affirmed that he hadn't thought of it that way, and should probably change the statement.

Commissioner Forrest couldn't understand why the recruit announcement says voluntary one place and says it's required in another. With all the controversy about affirmative action initiatives and so forth, he questioned how are we going to balance competing goals and treating people as individuals and also be cognizant of the fact that there've been past discrimination and unequal participation. He said the Commission would expect this issue to be high on the priority list on how to deal with this -- this is policy -- and Commissioner Forrest couldn't understand why state agencies haven't raised this issue. **Mr. Stenseng** affirmed it has been a hot button issue in government. Commissioner Forrest noted that if it was a hot issue, the least Mr. Stenseng should have said is that this is a questionable thing or asked what the Gambling Commission wanted to do, rather than say that this is just routine state government.

Chair McLaughlin clarified for Commission Parker (who was absent yesterday) that this information is strictly for statistical purposes and the hiring agency does not get the information. **Mr. Stenseng** affirmed.

Commissioner Parker noted that when comparing the announcement the Executive Search Service posted for the Commission's position to the announcement for a position for the Washington State Employment Security, he was more impressed with the Employment Security document because it was clearer in identifying a category called key responsibilities. He felt it would be difficult for an applicant to sense what the key responsibilities are for the Gambling Commission Director position -- the real requirements for this job versus preferences or other things that the Commission might be interested in terms of qualities of an applicant. Commissioner Parker asked if we could consider further revision to this document to try to achieve some additional clarities about what the key responsibilities are or the central requirements for this job, and then identify the desirable qualities. He questioned if we start changing the announcement now, since it's been on the Internet, are we moving the goal post back, and is there a legal problem with changing the definition of what we consider to be the essential requirements after it's already been published. **Mr. Ackerman** affirmed the Commission could withdraw this job announcement and put out a new job announcement, however, the Commission should give notice of that fact so that prior applicants would have an ability to reapply or to update the information they've provided and wouldn't be disadvantaged because they were responding to a different job announcement.

Chair McLaughlin noted the Commission hasn't made a decision, whether to stay with the Executive Search service, although we may have an obligation if there's a signed contract. **Mr. Ackerman** responded that he was satisfied after having heard the discussion today and the matters addressed in executive session, and would advise the Commission that they would have a free hand to do whatever was preferred at this point, including requesting rescission of the contract. Chair McLaughlin affirmed that's an option. **Commissioner Forrest** supported continuing with the Executive Search Group, with a replacement recruiter. **Commissioner Parker** addressed the voluntary form and indicated that he would

have no preference one way or another as to whether it went or didn't go. Commissioner Parker was somewhat encouraged by Mr. Stenseng's response about the types of recruiting efforts and outreach that his agency goes into, which was important. Commissioner Parker concurred with Commissioner Forest's comment. **Commissioner Orr** and **Commissioner Ludwig** agreed. Chair McLaughlin also supported staying with the Executive Search Service -- they're well respected and they know Washington State government, however, there is a matter of trust and perhaps a new recruiter would make everyone more comfortable. **Mr. Stenseng** suggested that perhaps Ted Koska take over. Chair McLaughlin responded that would certainly be all right if Mr. Koska was willing and available. Mr. Stenseng affirmed that Mr. Koska is available and would be interested in completing this project. Commissioner Parker noted that Mr. Koska authored the announcement that he liked for Employment Security. Commissioner Forrest affirmed.

Director Bishop suggested the current application be withdrawn and that the new recruiter contact the Commissioners for input. He affirmed that he could certainly address the key responsibility issues and provide some draft language for Commissioner consideration and DOP's consideration. **Mr. Ackerman** clarified that the Commission is requesting the existing job announcement be withdrawn and **Chair McLaughlin** affirmed, asking this be facilitated in the form of a motion.

Commissioner Orr made a motion seconded by **Commissioner Ludwig** to retain the Executive Search Services, and that Ted Koska be retained as the recruiter of record, and that the existing job announcement/application be withdrawn. Vote taken; the motion passed unanimously. **Director Bishop** asked the Commissioner what role they wanted him to be involved in through this process. Commissioner Ludwig and Chair McLaughlin responded "advice and counsel."

Director Bishop advised that he would like to meet with Mr. Koska. **Commissioner Forrest** concurred, particularly in helping him understand the agency. Another specific issue is the salary range -- Commissioner Forrest believed it should just say the salary is fixed by the Commission; the current salary is such and such.

Commissioner Orr noted that he voted with the Chair on the affirmative action issue and assumed that there was a chain of communications. **Chair McLaughlin** noted she voted for it because it was statistical information and a way of checking on the Executive Search Service, whether they are reaching the people they should be reaching.

Commissioner Ludwig suggested reconsidering that vote because it was a tie vote and the motion didn't carry for that reason and the fifth member is present today. Chair McLaughlin asked Commissioner Parker if it was important one way or the other. Commissioner Parker didn't think so and there was consensus to leave it as is.

8. Other Business/General Discussion/ Comments from the Public

Chair McLaughlin asked if there were any additional public comments. **Bruce Tower**, Spokane Tribe, said he was representing the interests of the Spokane Tribe of Indians. He said they just wanted to commend the Commission for the support of Senate Bill 5905 in its original form. The tribe thought this was the best way to end the longstanding dispute between the Spokane Tribe and the state of Washington. Unfortunately the bill was amended to exclude the Spokane Tribe prior to passage by the Senate and their efforts to try and set it back to its original form and intention in the House proved to be futile.

9. Presentation -- Colville Tribe

Withdrawn from agenda.

10. Adjournment

With no further business, a motion prevailed to adjourn the meeting at 12:15 p.m., and adjourned the meeting.

Minutes submitted to the Commission for approval by:

Shirley Corbett

Executive Assistant